LOCAL RULES

UNITED STATES DISTRICT COURT

NORTHERN MARIANA ISLANDS

Effective
January 1, 1997
(As Amended Through January 1, 2003)

Table of Contents

The Local Rules are numbered to correspond to the Federal Rules of Civil Procedure. For example, Federal Rule of Civil Procedure 56 deals with summary judgment and LR 56.1 is the Local Rule which affects summary judgment practice.

Note: The local civil rules shall be cited "LR ___."

STANDARDS OF PROFESSIONAL CONDUCT

V. Depositions and Discovery

NOTE: Discovery practice is governed by Fed.R.Civ.P. 26; the following Local Rules apply generally. In case of a conflict, the federal rules control.

Criminal Rules

NOTE: The court's local rules will generally apply to filings in criminal matters, except as specifically noted herein below or unless the interests of justice require the court to order otherwise. These local criminal rules shall be cited "LCrR __."

Habeas Corpus Petitions and Motions Under 28 U.S.C. § 2255

Bankruptcy Rules

NOTE: The court's local rules apply to all bankruptcy matters, unless the interests of justice require otherwise. The local bankruptcy rules shall be cited "LBR ____."

Admiralty Rules

NOTE: The local admiralty rules shall be cited "LAR ___."

Tax Rules

NOTE: The local tax rules shall be cited "LTR __."

Appendix A
Disciplinary Rules

NOTE: The local disciplinary rules shall be cited "LDR ___."

STANDARDS OF PROFESSIONAL CONDUCT*

The following standards of practice are to be observed by attorneys appearing in this Court:

In fulfilling his or her primary duty to the client, a lawyer must be ever conscious of the broader duty to the judicial system that serves both attorney and client.

A lawyer owes to the judiciary candor, diligence and utmost respect.

A lawyer owes to opposing counsel a duty of courtesy and cooperation, the observance of which is necessary for the efficient administration of our system of justice and the respect of the public it serves.

A lawyer unquestionably owes to the administration of justice the fundamental duties of personal dignity and professional integrity.

Lawyers should treat each other, the opposing party, the Court, and members of the Court staff with courtesy and civility and conduct themselves in a professional manner at all times.

A client has no right to demand that counsel abuse the opposite party or indulge in offensive conduct. A lawyer shall always treat adverse witnesses and suitors with fairness and due consideration.

In adversary proceedings, clients are litigants and though ill feeling may exist between clients, such ill feeling should not influence a lawyer's conduct, attitude, or demeanor towards opposing lawyers.

Lawyers will be punctual in communications with others and in honoring scheduled appearances, and will recognize that neglect and tardiness are demeaning to the lawyer and to the judicial system.

If a fellow member of the Bar makes a just request for cooperation, or seeks scheduling accommodation, a lawyer will not arbitrarily or unreasonably withhold consent.

Effective advocacy does not require antagonistic or obnoxious behavior and members of the Bar will adhere to the higher standard of conduct which judges, lawyers, clients, and the public may rightfully expect.

*These standards are incorporated into LR 1.5.

I. Scope of Rules

LR 1.1 - Scope of the Rules.

a. Title and Citation. These Rules shall be known as the Local Rules of the United States District Court for the Northern Mariana Islands. They shall be cited as "LR ____."

b. Effective Date. These Rules become effective January 1, 1997.

c. Scope of the Rules. These Rules shall apply in all proceedings in this court.

d. Relationship to Prior Rules; Actions Pending on Effective Date. These Rules supersede all previous Rules promulgated by this court or any judge of this court. They shall govern all applicable proceedings brought in this court after they take effect. They shall also apply to all proceedings pending at the time they take effect, except to the extent that in the opinion of the court the application thereof would not be feasible or would work an injustice, in which event the former rules shall govern.

e. Rule of Construction and Definitions.

1. United States Code, Title 1, sections 1 to 5, shall, as far as applicable, govern the construction of these rules.

2. The following definitions shall apply:

(a) The word "court" refers to the United States District Court for the Northern Mariana Islands, and not to any particular judge of the court.

(b) The word "judge" refers to any United States District Judge, or to a Designated Judge assigned pursuant to 48 U.S.C. § 1694(b)(2), or to a part-time or full-time United States Magistrate who exercises jurisdiction in a particular proceeding.

(c) The word "clerk" means the Clerk of Court or a deputy for the U.S. District Court for the Northern Mariana Islands.

LR 1.2 - Availability of the Local Rules.

Copies of these Rules, as amended and with any appendices attached hereto, are available from the Office of the Clerk of Court, U.S. District Court for the Northern Mariana Islands, P.O. Box 500687, Saipan, MP 96950, for a reasonable charge to be determined by the clerk.

When amendments to these rules are proposed, notice of such proposals and of the ability of the public to comment shall be provided by public posting, as well as by notice to the Northern Mariana Islands Bar Association, the Guam Bar Association, and by posting on the bulletin board in the Office of the Clerk of Court. Fed.R.Civ.P. 83.

When amendments to these rules are made, notice of such amendments shall be provided to the Northern Mariana Islands Bar Association, the Guam Bar Association, and by posting on the bulletin board in the Office of the Clerk of Court.

LR 1.3 - Sanctions.

The court may sanction for violation of any local rule governing the form of pleadings and other papers filed with the court only by the imposition of a fine against the attorney or a person proceeding pro se. Local rules governing the form of pleadings and other papers filed with the court include, but are not limited to, those local rules regulating the paper size, the number of copies to be filed with the court, and the requirement of a special designation in the caption.

LR 1.4 - Calendaring Conflicts.

a. Counsel's Duty to Notify Court. Within 48 hours of learning of a scheduling conflict between this court and any other court, counsel shall notify the presiding judge or clerk of this

court. The judge shall consider the following factors in resolving the conflict:

1. Whether a case is criminal, with attendant speedy trial concerns, or civil;
2. Whether out-of-town witnesses, parties, or counsel are scheduled to attend a case;
3. Age of the case;
4. Which matter was set first; and,
5. Any other factor which weighs in favor of one court and case over the other.

LR 1.5 - Standards of Professional Conduct.

Every member of this court's bar and any attorney permitted to practice in this court under LR 83.5.d shall be governed by and shall observe the Model Rules of Professional Conduct of the American Bar Association as adopted in 1983 and as thereafter amended or judicially construed, these Local Rules, and this court's "Standards of Professional Conduct," supra.

II. Commencement of Action; Service of Process; Pleadings, Motions, and Orders

LR 3.1 - Civil Cover Sheet

Every complaint or other document initiating a civil action shall be accompanied by a completed civil cover sheet, on a form available from the clerk. This requirement is solely for administrative purposes, and matters appearing only on the civil cover sheet have no legal effect in the action.

If the complaint or other document is filed without a completed civil cover sheet, the clerk shall mark the document as to the date received and promptly give notice of the omission to the party filing the document. When the civil cover sheet has been completed, the clerk shall file the complaint or other document nunc pro tunc as of the date of the original receipt.

LR 5.1 - General Format of Papers Presented for Filing

a. Applicability of Rule and Effect of Noncompliance. These Rules apply in all proceedings. All pleadings presented at the clerk's office shall be accepted for filing; however, noncompliance with these Rules may subject a party to sanctions.

b. General Requirements. All pleadings, motions, and other papers presented for filing shall be on 8.5 x 11 inch white paper of good quality, with double-spaced numbering running the length of the left margin, flat and unfolded, and shall be plainly typewritten, printed, or prepared by a clearly legible duplication process, and double-spaced, except for quoted material. Each page shall be numbered consecutively.

This rule does not apply to: 1) exhibits submitted for filing; and, 2) documents filed in removed actions prior to removal from the Commonwealth courts.

The upper right-hand corner three inches of the first page of all papers shall be left blank

for the clerk's use.

Unless otherwise required by this Rule, each page shall have a margin of not less than 1.5 inches on the top, one inch on the bottom, one-half inch on the right hand margin, and one inch on the left hand side of the page.

This Rule shall not apply to forms furnished by the court.

c. Citation Form. All citations shall be in a generally recognized form, preferably as found in A Uniform System of Citation (15th ed.), enabling both the court and opposing counsel to locate the cited work.

d. Cited Authority Not Available in the Court's Law Library. Parties shall provide the court and opposing counsel a copy of any case or other authority cited or relied upon which is not available in this court's law library.

e. Original and Two Copies Required for Court. Counsel shall supply the court with an original and two copies of all papers filed.

f. Counsel Identification. The name, address, telephone number, and facsimile number of counsel (or, if in propria persona, of the party), and the specific identification of each party represented by name and interest in the litigation (i.e., plaintiff, defendant, etc.) shall appear in the upper left-hand corner of the first page of each paper presented for filing, except that in multi-party proceedings reference may be made to the signature page for the complete list of parties represented.

g. Caption and Title.

(1) The title of the court shall be centered on the first page of all papers at least 1.5 inches from the top of the page.

(2) The title of the proceeding shall appear on the first page of all papers below the title

of the court and to the left of the center of the page. In a complaint, the title of the proceeding shall contain the names of all parties. In all papers other than a complaint the title of the proceeding may be appropriately abbreviated.

(3) The file number of the proceeding; a designation of the proceeding; i.e., as civil, criminal, bankruptcy, etc.; and a title describing the paper(s) presented for filing shall appear on the first page of all papers below the title of the court and to the right of the title of the proceeding.

(4) Every pleading shall be specifically and particularly identified; e.g. "Plaintiff's Opposition to Defendant's Motion for Partial Summary Judgment."

h. After-Hours and Lunch Hour Filings. Filings may be submitted to the Clerk of Court for filing during non-work hours by placing them in the slotted drop-box in the main door at the Clerk's Office. Only subsequent pleadings may be submitted for filing using the drop-box; new complaints, emergency matters, petitions for removal, sealed documents, and documents or administrative matters which require a fee payment (such as filing fees, payment of fines, or payment of restitution) cannot be filed using the drop-box. Likewise, documents filed in response to a court order setting a date and time certain for filing cannot be filed using the drop-box.

Documents placed in the drop-box after hours will be deemed filed as of the previous federal business day; documents placed in the drop-box during the lunch hour will be deemed filed the day they are deposited. NOTE: All documents must be served on opposing parties or counsel in accordance with the time frames provided by court order or in the Federal Rules of Civil Procedure.

The original and all necessary copies of subsequent pleadings such as answers, motions, etc. must be placed in a 9" x 12" or larger envelope. If the original and all copies cannot fit into

one envelope, they must be placed in separate envelopes and numbered sequentially, with the total number of envelopes indicated; i.e. "1 of 3." (Amendment effective April 1, 1999.)

i. Hearing Date and Time Must Be Noted on All Filings for Which a Hearing Will Be Held. The first page of every motion, opposition, reply, or other filing directed to a matter for which a hearing will be held shall indicate the date and time of the hearing (e.g. "Defendant's Opposition to Plaintiff's Motion for Summary Judgment" and, below that, "Hearing: March 2, 2000, Time: 10:00 a.m."). If the hearing date and time are not known to the filer at the time of the initial filing, the filer shall provide blank spaces for the information to be filled in. (Amendment effective September 1, 1999.)

LR 5.3 - Copies Required for a Three-Judge Court.

In addition to the original filed, four copies of all papers, including briefs, shall be filed with the clerk.

LR 5.5 - Filing Facsimile Copies.

Facsimile copies from attorneys whose main office is off-island or from local attorneys who are off-island may be accepted for filing provided the original thereof is mailed on the date of the facsimile transmission. The original shall be accompanied by a cover letter referring to the facsimile copy and its date of transmission.

A facsimile copy that is not an exact duplicate of the original is subject to being stricken on motion by the opposing party or upon an order of the court sua sponte. Sanctions may be imposed for filing an original which differs in any respect from the facsimile copy.

After a period of thirty days from the date of receipt of the original, which shall bear the same filing date as the facsimile copy, the clerk is authorized to remove from the court's file and discard the facsimile copy.

LR 5.6 - Time Computation.

Fed.R.Civ.P. 6 controls the manner for computing any period of time prescribed or allowed by these Rules, except that only seven calendar days will be allowed to file a reply brief to a motion. See, LR 7.1.c.3, infra.

III. Pleadings and Motions

NOTE: Motion practice is governed by Fed.R.Civ.P. 16 and LR 16. The following Local Rules apply generally; in case of a conflict with the Federal Rule and LR 16, the provisions of the Federal Rule control.

LR 7.1 - Motion Practice

a. Motion Day. Motion day shall be Thursday of each week. If a Thursday is a holiday the motion shall be calendared for the following Thursday. Unless the judge orders otherwise sua sponte or on motion, the clerk shall calendar motions in accordance with this Rule.

Oral argument is at the discretion of the court but will normally be heard unless the court enters an order indicating otherwise. (Local Rule 7.1.a amended effective January 4, 1999.)

b. Notice and Supporting Papers. Except as otherwise ordered or permitted by the judge, and except for application for a Temporary Restraining Order, all motions, except those made during a trial or hearing, shall be noticed in writing on the motion calendar for hearing not less than twenty-eight (28) days after filing. Each notice of motion shall be accompanied, where appropriate, by affidavits or declarations under penalty of perjury sufficient to support any material factual contentions, and by an appropriate legal memorandum or brief, including, where appropriate, citations to these Rules. See LR 16 regarding deadlines established in the Case Management Order.

c. Hearing Date; Opposition, and Reply.

1. Hearing Date. Unless the party moves for a different hearing date, a motion will be heard on the fourth Thursday after it is filed, not including the Thursday or Friday of the week in which the motion is filed. The first page of every motion, opposition, and reply shall contain the date and time of the hearing.

2. Opposition. Any opposition to the motion shall be filed and served by the close of

business (3:30 p.m.) on the Thursday of the second full week after the week in which the motion was filed. The opposition shall consist of a legal memorandum or brief and, when appropriate, affidavits or declarations under penalty of perjury. A party not opposing a motion shall file a statement of no opposition within the time provided above. Failure to file such a statement may be deemed an admission that the motion is meritorious.

3. Reply. The movant shall serve and file any reply to the opposition by the close of business (3:30 p.m.) no later than Thursday in the week following the week in which the opposition was filed.

(For example, if a motion is filed on Tuesday, the 2nd, the opposition would be due on Thursday, the 18th, the reply would be due on Thursday, the 25th, and the motion would be heard on the following Thursday. If a motion is filed on Friday, the 5th, the opposition and reply would remain due on the dates given above.)

4. No Further Filings Allowed. No further filings or replies shall be accepted without leave having first been obtained from the court. Any filing made in violation of this rule shall be stricken on the court's own motion, without the necessity of a motion.

d. Briefs and Memoranda: General Requirements and Sanctions. Briefs or memoranda supporting or opposing a motion shall not exceed twenty-five (25) pages in length. Reply memoranda shall not exceed ten (10) pages in length. A party wishing to exceed the page limit must first move to do so. If the motion is granted, the party shall then file its memorandum. Briefs or memoranda exceeding fifteen (15) pages shall have a table of contents and authorities cited. (Local Rule 7.1.c amended effective January 4, 1999.)

Failure to file briefs or memoranda within the time deadlines prescribed above may subject a party to a motion for summary disposition. Failure to file and serve an opposing brief or

memorandum may be deemed an admission that the motion is meritorious.

e. Continuance of Scheduled Motions.

1. Continuances Sought More Than One Week Before Hearing Date. The moving party, or both parties by stipulation, may continue a scheduled hearing date on a motion at any time up to one week before the scheduled hearing. The notice of continuation shall be in writing and shall indicate a new hearing date if the parties have continued the motion to a certain date. (Effective January 1, 2003)

f. Summary Judgment Motions; Procedures

See: LR 56.1, infra.

g. Motion for Reconsideration. In addition to motions brought pursuant to Fed.R.Civ.P. 59(a) or 60(b), reconsideration of any other order which results in a dismissal with prejudice or a judgment may be appropriate when (1) the court is presented with newly-discovered evidence, (2) the court committed clear error or the initial decision was manifestly unjust, (3) there has been an intervening change in controlling law, or (4) there is some other, highly persuasive circumstance warranting reconsideration. No other order will be reconsidered absent compelling reasons.

No motion for reconsideration shall in any manner repeat any oral or written argument made in support of or in opposition to the original motion. A motion for reconsideration shall be made within fourteen calendar days of entry of the order or judgment for which reconsideration is sought. Any opposition must be filed within 7 working days of the motion. There shall be no reply. Oral argument will be heard only upon the court's request. (LR 7.1.g was amended effective June 15, 1998.)

h. Extending, Increasing, or Shortening Time.

1. Stipulations Extending Time. Every proposed stipulation seeking an extension of

time shall indicate on the face sheet the sequential number of the extension; e.g., "Second Stipulation Extending Time". Each request for an extension of time shall be accompanied by an affidavit setting forth the reasons for the extension and the effect, if any, the extension of time will have on other deadlines previously set, and an order on a separate, captioned pleading for the judge's signature. The clerk shall submit the proposed extension and affidavit to the judge for disposition.

2. Applications for Increased Time. All applications for increases of time made by motion shall state (a) the total increase of time previously obtained by the parties, (b) the reason for the particular increase requested, and © the effect on other scheduled dates.

3. Ex Parte Applications.

(a) Upon satisfactory showing why the increase of time could not be obtained by stipulation or duly noticed motion, the court may grant ex parte an emergency increase sufficient to enable the party to apply for a further increase by stipulation or duly noticed motion. Any order granting an ex parte motion under this Rule shall be made subject to objections being filed by opposing counsel within the time provided by the court.

(b) Emergency and Ex Parte Motions. All ex parte motions shall comply with the following requirements:

1. Before filing the motion, the movant shall make every practicable effort to notify the clerk and opposing counsel, and to serve the motion at the earliest possible time.

2. Any motion under this Rule shall have a cover page bearing the legend "Emergency (or Ex-Parte, as the case may be) Motion Under Local Rule 7.1.h.3(b)" and the caption of the case.

A certificate of counsel for the movant, entitled "Certificate Pursuant to Local Rule

7.1.h.3(b), shall follow the cover page and shall contain:

(A) The telephone numbers and office addresses of the parties;

(B) Facts showing the existence and nature of the claimed emergency or reason for ex-parte application; and

(C) When and how counsel for the other parties were notified and whether they have been served with the motion; or, if not notified and served, why that was not practicable.

4. Extension to Respond to Third Party Claims. Whenever a defendant causes a summons and complaint to be served pursuant to Fed.R.Civ.P. 14 upon a third person not yet a party to the action, no increase of time shall be granted to the person so served except by stipulation of all parties or upon motion duly noticed.

5. Order Shortening Time. Applications for orders shortening the time permitted or required by the Federal Rules of Civil Procedure for the filing of any paper or pleading or the doing of any act shall be supported by an affidavit stating the reasons therefor. When the application is made ex parte, the affidavit shall state the reason why a stipulation could not be obtained from, or notice could not be given to, the opposing party.

I. Failure to Comply With Time Limits. The court need not consider motions, oppositions to motions, or briefs or memoranda that do not comply with the time limits set forth in these Rules.

LR 7.4 - Stipulations. A proffered stipulation shall contain, on a separate, captioned pleading, an order for the judge to sign. See also LR 7.1.h.1, supra.

LR 9.1 - Social Security Number in Social Security Cases

Any person seeking judicial review of a decision of the Secretary of Health and Human Services under Section 205(g) of the Social Security Act (42 U.S.C. § 405(g)) shall provide, on a separate paper attached to the complaint served on the Secretary of Health and Human Services, the social security number of the worker on whose wage record the application for benefits was filed. The person shall also state, in the complaint, that the social security number has been attached to the copy of the complaint served on the Secretary of Health and Human Services. Failure to provide a social security number to the Secretary of Health and Human Services will not be grounds for dismissal of the complaint, but may be grounds for the imposition of sanctions.

LR 9.2 - Request for Three-Judge Court

a. Request. In any action or proceeding which a party believes is required to be heard by a three-judge district court, the words "Three-Judge District Court Requested," or the equivalent, shall be included immediately following the title of the first pleading in which the cause of action requiring a three-judge court is pleaded. Unless the basis for the request is apparent from the pleading, it shall be set forth in the pleading or in a brief statement attached thereto. The words "Three-Judge Court Requested," or the equivalent, on a pleading is a sufficient request under 28 U.S.C. § 2284.

b. Copies of Filings. In any action or proceeding in which a three-judge court is requested, parties shall file the original and four copies of every pleading, motion, notice, or other document with the clerk until it is determined either that a three-judge court will not be convened or that the three-judge court has been convened and dissolved, and the case remanded to a single judge. The parties may be permitted to file fewer copies by order of the court.

c. Failure to Comply. A failure to comply with this local rule is not a ground for failing to convene or for dissolving a three-judge court, but may be grounds for imposition of sanctions.

LR 15.1 - Form of a Motion to Amend and Its Supporting Documents.

A party who moves to amend a pleading shall attach the original of the amendment, and two copies, to the motion. Any amendment to a pleading, whether filed as a matter of course or upon a motion to amend, must, except by leave of court, reproduce the entire pleading as amended, and may not incorporate any prior pleading by reference. A failure to comply with this rule is not grounds for denial of the motion, but may be grounds for imposition of sanctions.

LR 16.2CJ - Case Management and Pretrial Conferences

a. Definitions.

1. "Differentiated Case Management" ("DCM") is a system providing for management of cases based on case characteristics. This system is marked by the following features: during the Case Management Conference the court and attorneys for the parties review and screen the civil case and channel the case to processing "tracks" which provide an appropriate level of judicial, staff, and attorney attention; each track employs a case management plan tailored to the general requirements of similarly situated cases; and provision is made for the initial track assignment to be adjusted to meet the special needs of any particular case. See LR 16.2CJc, infra.

2. "Case Management Conference" is the conference conducted by the judge within thirty (30) calendar days after the time for the filing of the last permissible responsive pleading where track assignment, Alternative Dispute Resolution ("ADR") and discovery are discussed, and where discovery and motion deadlines and the date of the status hearing are set. See LR

16.2CJe, infra.

3. "Status Conference" is the mandatory conference that is held approximately midway between the date of the Case Management Conference and the discovery cut-off date.

4. "Case Management Plan" ("CMP") is the plan adopted by the judge at the Case Management Conference. The CMP shall include all matters set forth in Fed.R.Civ.P. 16(a), and may include all matters set forth in Fed.R.Civ.P. 16(c), as well as the determination of track assignments.

5. "Dispositive Motion" shall mean a motion to dismiss pursuant to Fed.R.Civ.P. 12(b), a motion for judgment on the pleadings pursuant to Fed.R.Civ.P. 12(c), a motion for summary judgment pursuant to Fed.R.Civ.P. 56, or any other motion which, if granted, would result in the entry of judgment or dismissal, would dispose of any claims or defenses, or would terminate the litigation.

6. "Discovery cut-off" is the date by which all responses to written discovery shall be due and by which all depositions shall be concluded. Counsel must initiate discovery requests and notice or subpoena depositions sufficiently in advance of the discovery cut-off date so as to comply with this rule, and discovery requests that seek responses or schedule depositions after the discovery cut-off are not enforceable except by order of the court for good cause shown. Notwithstanding the foregoing, a party seeking discovery will not be deemed to be in violation of the discovery cut-off if all parties consent to delay furnishing the requested discovery until after the cut-off date or if, for example, a deposition that was commenced prior to the cut-off date and adjourned cannot reasonably be resumed until an agreed date beyond the discovery cut-off; provided, however, that the parties may not, by stipulation and without the consent of the court, extend the discovery cut-off to a date later than ten (10) days before the Final Pretrial Conference.

Other dates shall not be affected by agreements to extend the discovery deadline.

b. Assertive Judicial Management.

The judge shall manage the pretrial activity of the case through direct involvement in the establishment, supervision, and enforcement of a Case Management Plan. The judge shall:

1. Timely convene and conduct a Case Management Conference;

2. Assess the complexity of the case and the anticipated discovery attendant to the case, and in consultation with counsel for the parties implement a Case Management Plan which establishes deadlines, to the extent possible.

c. Tracks, Evaluation, and Assignment of Cases.

1. Number and Types of Tracks.

(a) "Expedited" - Cases on the Expedited Track shall be completed within six (6) months or less after filing, and shall have a discovery cut-off no later than sixty (60) days prior to trial. Discovery guidelines for this track include interrogatories limited to fifteen (15) single-part questions; fifteen (15) requests for admission; depositions of the parties; depositions on written questions of custodians of business records for non-parties; no more than one (1) fact witness deposition per party without prior approval of the court; and such other discovery, if any, as may be provided for in the CMP.

(b) "Standard" - Cases on the Standard Track shall be completed within twelve (12) months or less after filing, and shall have a discovery cut-off no later than sixty (60) days prior to trial. Discovery guidelines for this track include interrogatories limited to thirty (30) single-part questions; thirty (30) requests for admission; depositions of the parties; depositions on written questions of custodians of business records for non-parties; no more than three (3) fact witness depositions per party without prior approval of the court; and such other discovery, if any, as may

be provided for in the CMP.

(c) "Complex" - Cases on the Complex Track shall have the discovery cut-off established in the CMP and shall have a case completion goal of no more than eighteen (18) months. Discovery guidelines for this track include interrogatories limited to fifty (50) single-part questions; fifty (50) requests for admission; depositions of the parties; depositions on written questions of custodians of business records for non-parties; and such additional depositions and discovery to be set at the conference.

2. Evaluation and Assignment of Cases; Criteria. The court shall consider and apply the following factors in assigning cases to a particular track:

(a) Expedited:

(1) Legal Issues: Few and clear

(2) Required Discovery: Limited

(3) Number of Real Parties in Interest: Few

(4) Number of Fact Witnesses: Up to five (5)

(5) Expert Witnesses: None

(6) Likely Trial Days: Less than five (5)

(7) Suitability for ADR: High

(8) Character and Nature of Damage Claims: Usually a fixed amount

(b) Standard:

(1) Legal Issues: More than a few, some unsettled

(2) Required Discovery: Routine

(3) Number of Real Parties in Interest: Up to five (5)

(4) Number of Fact Witnesses: Up to ten (10)

(5) Expert Witnesses: Two (2) or three (3)

(6) Likely Trial Days: Five (5) to ten (10)

(7) Suitability for ADR: Moderate to high

(8) Character and Nature of Damage Claims: Routine

(c) Complex:

(1) Legal Issues: Numerous, complicated, and possibly unique

(2) Required Discovery: Extensive

(3) Number of Real Parties in Interest: More than five (5)

(4) Number of Fact Witnesses: More than ten (10)

(5) Expert Witnesses: More than three (3)

(6) Likely Trial Days: More than ten (10)

(7) Suitability for ADR: Moderate

(8) Character and Nature of Damage Claims: Usually requiring expert testimony.

3. Evaluation and Assignment. The court shall evaluate and screen each civil case in accordance with this Section. The recommended track assignment will be sent to counsel with the notice of the Case Management Conference. At the Case Management Conference, after discussion with counsel, the court will assign the case to one of the case management tracks.

d. Mandatory Pre-Discovery Disclosure. [See also LR 26 for discovery-related rules.]

In order to facilitate the implementation of an informed Case Management Plan, and in accordance with Fed.R.Civ.P. 26(f), every party shall, not less than fourteen (14) days prior to the date set for the Case Management Conference, file and serve a pre-discovery disclosure statement, setting forth the information required to be disclosed pursuant to Fed.R.Civ.P. 26(a).

(1) Methods to Discover Additional Matter. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property under Fed.R.Civ.P. 34 or 45(a)(1)(C), for inspection and other purposes; physical and mental examinations; and, requests for admission. Discovery at a place within a country having a treaty with the United States applicable to the discovery must be conducted by methods authorized by the treaty except that, if the court determines that those methods are inadequate or inequitable, it may authorize other discovery methods not prohibited by the treaty.

(2) Methods of Resolving Discovery Disputes. In conducting depositions, all parties should be mindful of the provisions of Fed.R.Civ.P. 26(b)(1), relating to the scope of discovery, and the provisions of Fed.R.Civ.P. 32(b), which allows the parties to reserve many objections until the time of trial. Attention is directed to the provisions of LR 26, which requires counsel to meet and confer before a discovery motion is filed. Notwithstanding any other provision in the Local Rules, at the option of the moving party, discovery disputes that remain unresolved after a good faith effort by counsel to resolve them shall be decided on oral motion, or on the basis of memoranda not to exceed two typewritten, double-spaced pages. The court will act promptly upon a motion so made. Such action may include a ruling upon the motion, or such other orders as may be appropriate, including but not limited to an order requiring the parties to file additional briefs and granting additional time to respond. The moving party is responsible for coordinating the date and time of the hearing with the court and opposing parties. The court will, upon oral or written motion, resolve disputes regarding the date/time of hearing.

e. Case Management Conference ("CMC"); Informed Participation by Counsel

for All Parties at Case Management Conference.

1. Order Setting Case Management Conference.

Within thirty (30) calendar days after the time for the filing of the last permissible responsive pleading, the court shall issue an order setting a Case Management Conference.

(a) Telephone Conferencing. Upon request (made at least one full calendar week prior to the hearing date) of any attorney who does not reside on the island of Saipan, or who is temporarily absent from Saipan, the court, in its discretion, may hold by telephone the CMC and other conferences, and any scheduled argument on motions. Telephone conferencing is encouraged when that practice will save the attorneys, parties, or court time and money.

2. Case Management Conference Statement; Duty of Parties.

Counsel for all parties shall be required to file a written statement no later than five (5) calendar days in advance of the Case Management Conference that specifically addresses all matters critical to the development of a realistic and efficient Case Management Plan and which are specifically set forth below and in Fed.R.Civ.P. 16 (b) and (c):

(a) Service of process on parties not yet served;

(b) Jurisdiction and venue;

(c) Anticipated motions;

(d) Appropriateness of special procedures such as consolidation of actions for discovery or pretrial;

(e) Modifications of the standard pretrial procedures specified by this

Rule on account of the relative simplicity or complexity of the action or proceeding;

(f) Settlement prospects; and,

(g) Any other matter which may be conducive to the just, efficient and economical determination of the proceeding, including the definition or limitation of issues;

(1) Continuances. Unless otherwise ordered, LR 7.1.h governs continuances of status conferences.

3. Representation At Conference by Attorney with Authority to Bind.

Pursuant to Fed.R.Civ.P. 16(a), the attorney for a party participating in aCase Management Conference or any other pretrial conference shall have authority to enter into stipulations and to make admissions regarding all matters that the participants may reasonably anticipate may be discussed, including:

(a) Whether any issue exists concerning venue or jurisdiction over the subject matter or the person;

(b) Whether all parties have been properly designated and served;

(c) Whether all counsel have filed appearances;

(d) Whether any issue exists concerning joinder of parties or claims;

(e) Whether any party contemplates adding further parties;

(f) The factual bases and legal theories for the claims and the defenses involved in the case;

(g) The type and extent of damages being sought;

(h) Whether any question exists concerning appointment of a guardian

ad litem, next friend, administrator, executor, receiver, or trustee;

(I) The extent of the discovery undertaken to date;

(j) The extent and timing of anticipated future discovery, including, in appropriate cases, a proposed schedule for the taking of depositions, serving of interrogatories and motions to produce, etc.;

(k) Identification of anticipated witnesses or persons then known to have pertinent information;

(l) Whether any discovery disputes are anticipated;

(m) The time reasonably expected to be required for completion of all discovery;

(n) The existence and prospect of any pretrial motions, including dispositive motions;

(o) Whether a trial by jury has been demanded in a timely fashion;

(p) Whether it would be useful to separate claims, defenses, or issues for trial or discovery;

(q) Whether related actions are pending or contemplated;

(r) The estimated time required for trial;

(s) Whether special verdicts will be needed at trial and, if so, the issues verdict forms will have to address;

(t) A report on settlement prospects, including the prospect of disposition without trial through any process, the status of settlement negotiations, and the advisability of a formal mediation or settlement conference either before or at the completion of discovery;

(u) The advisability of court-ordered mediation or early neutral evaluation proceedings, where available; and

(v) The advisability of use of a court-appointed expert or master to aid in administration or settlement efforts.

(w) Additional Matters by Specific Order. By specific order, the judge also may require participation in a settlement conference, and may require preparation to discuss any other matter that appears to be likely to further the just, speedy, and inexpensive resolution of the case, including notification to the parties of the estimated fees and expenses likely to be incurred if the matter proceeds to trial.

4. Case Management Conference Order.

At the conclusion of the Case Management Conference the judge shall immediately enter an order summarizing the matters discussed and action taken to establish the Case Management Plan. The order will govern further proceedings. Copies of the order shall be served on all parties who have made an appearance.

5. Settlement Conferences; Mandatory Consideration.

The court will routinely set a date for a settlement conference; however, any party may also file a request for an additional settlement conference.

(a) Mandatory Attendance by Representatives With Full Authority to Effect Settlement. Each party shall be required to attend the settlement conference, either personally or through a representative with full authority to participate in settlement negotiations and to effect a complete compromise of the case.

(b) Attendance of Party. The judge may require the attendance or availability of the parties, pursuant to Fed.R.Civ.P. 16(c).

(c) Judge. The judge may, in his or her discretion, preside over the settlement conference.

6. Additional Pretrial Conferences; Objections Thereto.

In addition to the Case Management Conference, and pursuant to Fed.R.Civ.P. 16(a), other pretrial conferences may be held in any proceeding when the judge so orders by issuing a status conference order on the judge's own motion or by any other order issued at the written request of any party. If a party files a request, the party shall serve a copy upon all other parties, who shall have five (5) days from the date of service within which to respond to the request.

7. Pretrial Preparation; Duty of Parties.

(a) Unless the judge otherwise orders, not less than fourteen (14) calendar days before the first scheduled trial date each party shall:

(1) Serve and file briefs on all significant disputed issues of law, including foreseeable procedural and evidentiary issues, setting forth briefly the party's position and supporting authorities;

(2) In jury cases, serve and file proposed voir dire questions, jury instructions and forms of verdict;

(3) Serve and file statements to be offered at the trial other than for impeachment or rebuttal designating excerpts from depositions (specifying the witness and page/line reference), from interrogatory answers, and from responses to requests for admission;

(4) Exchange copies of all exhibits to be offered and all schedules, summaries, diagrams, and charts to be used at trial other than for impeachment or rebuttal. Each

proposed exhibit shall be pre-marked for identification in a manner clearly distinguishing plaintiff's exhibits from defendant's exhibits. Upon request, a party shall make the original of any exhibit available for inspection and copying.

(b) In non-jury cases, the parties may serve and file proposed findings of fact and conclusions of law in addition to the material required by subsection (a) of this Rule. The court may also direct that findings and conclusions be filed.

(c) Objections to Proposed Testimony and Exhibits. Promptly after receiving statements and exhibits pursuant to the rule above, any party proposing to object to the admission in evidence of any proposed testimony or exhibit shall advise the opposing party of the objection. The parties shall confer in advance of trial with respect to any objections and attempt to resolve them. They shall advise the court of any unresolved objections and make reasonable efforts to present the matters to the court in advance of trial for ruling.

8. Final Pretrial Conference.

Pursuant to Fed.R.Civ.P. 16(d), a final pretrial conference shall be held not later than seven (7) days before the scheduled trial date, unless deemed unnecessary by the court and counsel.

(a) Individuals Attending. Unless excused by the judge, each unrepresented party shall be present at the final pretrial conference and a party with counsel shall be represented by at least one counsel who will conduct the trial. Counsel shall have full authority from their clients with respect to

settlement and shall be prepared to advise the judge as to the prospects of settlement.

9. Final Pretrial Order.

The following issues shall be discussed at the final pretrial conference and shall be included in the final pretrial order, which order shall be prepared jointly by the parties for the signature of the judge:

(a) The firm trial date;

(b) Stipulated and uncontroverted facts;

(c) List of issues to be tried;

(d) Disclosure of all witnesses;

(e) Listing and exchange of copies of all exhibits;

(f) Pretrial rulings, where possible, on objections to evidence;

(g) Disposition of all outstanding motions;

(h) Elimination of unnecessary or redundant proof, including limitations on expert witnesses;

(I) Itemized statements of all damages by all parties;

(j) Bifurcation of the trial;

(k) Limits on the length of trial;

(l) Jury selection issues;

(m) Any issue that in the judge's opinion may facilitate and expedite the trial, for example the feasibility of presenting testimony by a summary written statement; and,

(n) The date when proposed jury instructions shall be submitted to the

court and opposing counsel, which, unless otherwise ordered, shall be the first day of the trial.

LR 16.3CJ Trial Date; Presumptive

1. It shall be the policy of the court to utilize all available judicial resources to allow the court to adhere to an established trial date.

2. An established trial date shall not be vacated unless there exists a compelling reason necessitating a continuance.

3. When the court is unable to convene trial as scheduled the court shall, as soon as practicable, take the following action:

(a) Determine if another judge would be available to preside over the trial on the date scheduled; or

(b) Convene a status conference for the purpose of advising counsel and the parties of the necessity to consider vacating the trial date; or

(c) Establish a new trial date which will not unnecessarily inconvenience either counsel or the parties.

LR 16.11CJ Alternative Dispute Resolution: Non-Binding Summary Jury Trials.

a. Eligible Cases. Any civil case triable to a jury may be assigned for summary jury trial.

b. Selection of Cases. A case may be selected for summary jury trial:

1. By the court at the Case Management Conference; or

2. At any time:

a. By the court on its own motion;

b. By the court, on the motion of one of the parties; or

c. By stipulation of all parties.

c. Procedural Considerations. Summary jury trial is a flexible ADR process. The procedures to be followed shall be determined in advance by the judge in light of the circumstances of the case. The following matters will be considered by the judge and counsel in structuring a summary jury trial:

1. Scheduling. Ordinarily a case will be set for summary jury trial when discovery is substantially completed and conventional pretrial negotiations have failed to achieve settlement. In some cases, settlement prospects may be advanced by setting the case for an early summary jury trial. To facilitate an early summary jury trial, limited and expedited discovery shall be obtained to accommodate earlier settlement potential. The summary jury trial will usually precede the trial by approximately sixty (60) days.

2. Judge. The summary jury trial shall be conducted by the judge to whom the case is assigned or referred.

3. Submission of Written Materials. Certain materials shall be submitted to the court before the summary jury trial begins. These will usually include a statement of the case, stipulations, exhibits, and proposed jury instructions.

4. Attendance. Each individual who is a party shall attend the summary jury trial in person. When a party is other than an individual or when a party's interests are being represented by an insurance company, an authorized representative of the party or insurance company, with full authority to settle, shall attend.

5. Size of Jury Panel. The jury will usually consist of six (6) jurors. To accommodate case concerns, the size of the jury panel may vary. Because the summary jury trial is usually concluded in a day or less, and to provide the court and counsel with additional juror reaction, the judge may choose to use the challenged or unused panel members as a second jury.

6. Voir Dire. Parties will ordinarily be permitted some limited voir dire. The number of challenges to jurors, if any, will be determined in advance.

7. Opening Statements. Each party will have an opportunity to make a brief opening statement to help put the case into perspective. If possible, voir dire and the opening statement will be combined into one procedure, with fifteen (15) minutes allotted for each party.

8. Transcript or Recording. A party may cause a transcript or recording to be made of the proceedings at the party's expense, but no transcript of the proceedings may be submitted in evidence at any subsequent trial unless the evidence would be otherwise admissible under the Federal Rules of Evidence.

9. Case Presentations. As this is not a full trial, it is expected that counsel will present a condensed narrative summary of the entire case, consisting of an amalgamation of an opening statement, evidentiary presentations, and final arguments. In this presentation counsel may present exhibits, or read excerpts from exhibits, reports, and depositions, all of which evidentiary submissions should be subject to the approval of the judge by addressing motions in limine at a reasonable time in advance of the scheduled summary jury trial. This advanced consideration

permits the summary jury trial to proceed uninterrupted by objections. Generally, live non-party witnesses will not be permitted, although an exception may be made by the judge. An attorney certifies that offering any such summary of testimony or evidence is based upon a good faith belief and a reasonable investigation that the testimony or evidence would be available and admissible at trial.

10. Jury Instructions. Jury instructions will be given. They will be adapted to reflect the nature of the proceeding.

11. Jury Deliberations. Jury deliberations will be limited in time. Jurors will be encouraged to reach a consensus verdict. If that is not possible, separate verdicts may give the parties a sense of how jurors view the case.

12. Verdict. The jury may issue an advisory opinion regarding liability or damages, or both. Unless the parties agree otherwise, the advisory opinion is not binding and is not appealable.

13. De-briefing the Jurors. After the verdict, the judge shall initiate and encourage a discussion of the case by the parties and the jurors.

14. Settlement Negotiations. Within a short time after the summary jury trial, the judge and the parties will meet to see whether the matter can be compromised. A sufficient period between the end of the summary jury trial and the meeting is necessary to allow the parties to evaluate matters, but the judge will exercise care not to allow too much time to elapse.

15. Trial. If the case does not settle as the result of the summary jury trial, it will proceed to trial on the scheduled date.

16. Limitation on Admission of Evidence. The judge shall not admit at a subsequent trial any evidence that there has been a summary jury trial, the nature or amount of any "verdict,"

or any other matter concerning the conduct of the summary jury trial or negotiations related to it, unless:

a. The evidence would otherwise be admissible under the Federal Rules of Evidence; or

b. The parties have otherwise stipulated.

IV. Parties

LR 17.1 - Infants and Incompetent Persons

a. Guardians Ad Litem. The judge shall have broad discretion to appoint a guardian ad litem. See Fed.R.Civ.P. 17.

1. Appointment Procedure. Guardians ad litem may be appointed ex parte, at any time upon the presentation to the judge of a sworn petition showing good cause for the appointment. An appointment order shall be filed with the petition.

2. Person Ineligible to be a Guardian Ad Litem. Except in the discretion of the judge, no person shall be appointed guardian ad litem if the person has an interest adverse to that of the minor or incompetent, or if the person is connected in business with an adverse party or with the attorney of the adverse party; or if the person has insufficient pecuniary ability to answer to the minor or incompetent for any injury which the minor or incompetent may sustain as a result of the person's negligence or misconduct.

3. Bond of Guardian Ad Litem. Ordinarily, no bond shall be necessary from a guardian ad litem; provided, that no guardian shall receive any money or other property of the minor or incompetent until the guardian has filed with the clerk a bond in an amount fixed by the judge, conditioned for the faithful performance of the guardian's duties. If the guardian does not desire to receive any money or property of the minor or incompetent, the money or property shall be paid or delivered to the clerk or to a person directed by the court. Under these circumstance, the payment or delivery of the money or property to the clerk shall have the same effect as if the money or property had been paid or delivered to the guardian.

4. Order of Judgment Required. No action by or on behalf of a minor or incompetent shall be dismissed, discontinued, or terminated without the court's approval. When required by

Commonwealth law, court approval shall also be obtained from the appropriate Commonwealth court having jurisdiction over the matter for any settlement or other disposition of litigation involving a minor or incompetent.

LR 23.1 - Designation of "Class" in the Caption

In any case sought to be maintained as a class action, the complaint or other pleading asserting a class action shall include next to its caption, the legend "Class Action."

LR 24.1 - Procedure for Notification of Any Claim of Unconstitutionality

a. In any action, suit, or proceeding in which the United States or any agency, officer, or employee thereof is not a party and in which the constitutionality of an Act of Congress affecting the public interest is drawn in question, or in any action, suit, or proceeding in which the Commonwealth or any agency, officer, or employee thereof is not a party, and in which the constitutionality of any statute of the Commonwealth affecting the public interest is drawn in question, the party raising the constitutional issue shall notify the court of the existence of the question either by checking the appropriate box on the Civil Cover Sheet or by stating on the pleading that alleges the unconstitutionality, immediately following the title of that pleading, "Claim of Unconstitutionality," or the equivalent.

b. Failure to comply with this rule will not be grounds for waiving the constitutional issue or for waiving any other rights the party may have. Any notice provided under this rule, or lack of notice, will not serve as a substitute for, or as a waiver of, any pleading requirement set forth in the Federal Rules or statutes. See 28 U.S.C. § 2403 for complete text.

V. Depositions and Discovery

NOTE: Discovery practice is now governed in large measure by Fed.R.Civ.P. 26(a) and LR 16.2CJ, supra. The following local rules apply generally; in case of a conflict the federal rule controls.

LR 26.1 - General Requirements.

a. Lawyers shall make reasonable efforts to conduct all discovery by agreement.

b. A lawyer shall not use any form of discovery, or the scheduling of discovery, as a means of harassing opposing counsel or his or her client.

c. Requests for production shall not be excessive or designed solely to place a burden on the opposing party.

LR 26.2 - Scheduling.

a. Lawyers shall, when practical, consult with opposing counsel before scheduling hearings and depositions, in a good faith attempt to avoid scheduling conflicts.

b. When scheduling hearings and depositions, lawyers shall communicate with opposing counsel in an attempt to schedule them at a mutually agreeable time. This practice will avoid unnecessary delays, expense to clients, and undue stress to lawyers and their secretaries in the management of their calendars and practice.

c. If a request is made to clear time for a hearing or deposition, the lawyer to whom the request is made shall confirm that the time is available or advise of a conflict within a reasonable time (preferably the same business day, but in any event before the end of the following business day).

d. Conflicts shall be indicated only when they actually exist and the requested time is not available.

LR 26.3 - Exceptions.

a. A lawyer who has attempted to comply with this Rule is justified in setting a hearing or deposition without agreement from opposing counsel if opposing counsel fails or refuses promptly to accept or reject a time offered for hearing or deposition.

b. If opposing counsel raises an unreasonable number of calendar conflicts, a lawyer is justified in setting a hearing or deposition without agreement from opposing counsel.

c. If opposing counsel has consistently failed to comply with this guideline, a lawyer is justified in setting a hearing or deposition without agreement from opposing counsel.

d. In cases involving extraordinary remedies where time associated with scheduling agreements could cause damage or harm to a client's case, a lawyer is justified in setting a hearing or deposition without agreement from opposing counsel.

LR 26.4 - Minimum Notice for Depositions and Hearings.

a. Depositions and hearings shall not be set with less than one week's notice except by agreement of counsel or when a genuine need or emergency exists.

b. If opposing counsel makes a reasonable request which does not prejudice the rights of the client, compliance herewith is appropriate without motions, briefs, hearings orders and other formalities and without attempting to extract unrelated or unreasonable consideration.

LR 26.5 - Canceling Depositions, Hearings, and Other Discovery Matters.

Notice of cancellation of depositions and hearings shall be given to the court and opposing counsel at the earliest possible time.

LR 26.6 - Time Deadlines and Extensions.

Reasonable extensions of time should be granted to opposing counsel where such extension will not have a material, adverse effect on the rights of the client. Traditionally, members of this bar association have readily granted any reasonable request for an extension of time as an accommodation to opposing counsel who, because of a busy trial schedule, personal emergency, or heavy work load, needs additional time to prepare a response or comply with a legal requirement. This tradition should continue; provided, however, that no lawyer should request an extension of time solely for the purpose of delay or to obtain any unfair advantage. Counsel should make every effort to honor previously scheduled off-island trips of opposing counsel when such dates have been established in good faith.

LR 26.7 - Interrogatories - Form and Limitation on Number.

a. Form. The interrogatories shall be so arranged that after each separate question shall appear a blank space reasonably calculated to enable the answering party to type in the answer. The answering party shall verify his or her answers to said interrogatories immediately following the answer to the last interrogatory so propounded.

b. Limitation on Number. Prior to the filing of a responsive pleading, no party shall serve on any other party interrogatories which, including subparagraphs, number more than fifteen (15), without prior leave of court. Subparagraphs of any interrogatory shall relate directly to the

subject matter of the main interrogatory. These interrogatories shall be included in the total number of interrogatories allowed by the case's track assignment. Any party desiring to serve additional interrogatories prior to the filing of a responsive pleading shall submit to the court a written memorandum setting forth the proposed additional interrogatories and the reasons establishing good cause for their use.

LR 26.8 - Answers and Objections to Interrogatories.

a. Answers to Interrogatories. The party to whom interrogatories are directed shall answer each interrogatory within the space so provided or using additional pages, if necessary, and thereafter shall serve the copy of the same upon all parties.

b. Objections to Interrogatories or Answers.

1. A party objecting to written interrogatories shall set forth each interrogatory objected to followed by his or her objection and the reasons for it.

2. A party objecting to answers shall set forth each answer objected to as well as the interrogatory to which it relates, followed by the objection and the reasons for it.

LR 26.9 - Answers and Objections to Requests for Admission.

Responses and objections to requests for admission or answers thereto pursuant to Fed.R.Civ.P. 36 shall identify and quote each request for admission in full immediately preceding the statement of any answer or objection to the request for admission.

LR 26.10 - Abuse of or Failure to Make Discovery; Sanctions.

a. Conference Required. The court will entertain no motion under Federal Rules of Civil

Procedure 26 through 37 unless counsel have previously met and conferred concerning all disputed issues. If counsel for the moving party seeks to arrange a conference and counsel for the party against whom the motion is made refuses or fails to meet and confer, the court may order the payment of reasonable expenses, including attorney fees, pursuant to Fed.R.Civ.P. 37(a)(4) and LR 1.3.

b. Certificate of Compliance. When filing any motion under Federal Rules of Civil Procedure 26 through 37, counsel for the moving party shall certify compliance with this Rule.

LR 26.12 - Depositions for Use in Judicial Proceedings.

Applications may be made ex parte for the designation, pursuant to 28 U.S.C. §1782, of a Commissioner to take the deposition of a person within this District for use in a judicial proceeding pending in the court of a foreign country. If the court in which the proceeding is pending has appointed a person to take the deposition, that person will be designated, unless there is good cause for refusing such designation.

The Commissioner shall certify and mail the deposition to the foreign court in accordance with the applicable Federal Rule of Civil Procedure, and file proof of mailing with the clerk.

LR 26.13 - Filing of Discovery Materials.

Whether or not discovery materials shall be filed will be determined on a case-by-case basis, and addressed in the court's case scheduling order.

VI. Trials

LR 41.1 - Dismissal of Actions.

In addition to dismissals pursuant to Fed.R.Civ.P. 41, if a proceeding has been pending for more than six (6) months without any action taken by the parties during that period, upon notice to the parties the court may dismiss the proceeding for lack of prosecution. The court may order dismissal at any calendar call. The dismissal shall be without prejudice.

LR 53.2 - Arbitration/Alternate Dispute Resolution

(See LR 16.11CJ, supra)

VII. Judgment

LR 54.1 - Taxation of Costs.

a. Application to the Clerk. Within ten (10) calendar days after the entry of a judgment allowing costs the prevailing party shall serve on the attorney for the adverse party and file with the clerk an application for the taxation of costs. The application shall be on a Bill of Costs form prescribed by the court, which shall be furnished by the clerk. If an application for costs is received which is not on the appropriate form, the clerk shall file the application as presented and promptly notify the party seeking costs that it was filed on the wrong form. The clerk shall accompany such notification with the proper form and instruct the party to file the application on the proper form within five (5) days. The application shall contain an itemized schedule of costs in a sworn statement signed by the attorney for the applicant that the schedule is correct and that the costs were necessarily incurred. The application shall be heard by the clerk not less than five (5) nor more than ten (10) calendar days after it is served, and notice of the time of hearing shall be endorsed upon it.

A failure to comply with this Rule waives the right to recover all costs, other than the clerk's costs, which may be inserted in the judgment without application. At the option of the clerk the hearing may be held by telephone conference call.

b. Depositions. In taxing costs of depositions, the clerk shall allow the fees of the court reporter at the rates specified by the Judicial Conference of the United States, or the actual fees paid by the prevailing party, whichever is less, for the originals of any depositions which were taken in the case at the instance of the prevailing party and filed with the court, unless it appears from the general content of the deposition that it was not reasonably necessary for the

development of the case in light of the situation existing at the time of its taking.

In any case in which the judge has entered a special protective order, the clerk, using the rate specified in the preceding paragraph, shall tax costs for the original of any deposition taken by the prevailing party which was taken by reason of entry of such protective order.

The clerk or the court may refuse to tax the cost of transcribing direct examination or cross-examination which is unreasonably prolonged or irrelevant. By including deposition costs in the application, counsel for the prevailing party will be deemed to have certified that the deposition or depositions involved were reasonably necessary, when taken, to the development of the case. In the absence of an objection from the adverse party, the clerk may presume that any depositions for which costs are claimed were reasonably necessary for the development of the case and do not contain unreasonably prolonged or irrelevant examination.

c. Transcripts. In taxing costs of transcripts the clerk shall allow fees of the court reporter at the rate specified by the Judicial Conference of the United States, or the actual fees paid by the prevailing party for the original or any portion of the transcript furnished to the court, unless it appears that the transcript was not necessarily obtained for use in the case. In the absence of an objection from the adverse party, the clerk may presume that any portion of the transcript for which costs are claimed was reasonably necessary for the development of the case.

d. Fees and Disbursements for Witnesses. A party entitled to recover costs shall be entitled to recover the statutory fees and allowances for necessary witnesses as provided in 28 U.S.C. §1821 or its successor. Such statutory fees and allowances will be taxable costs for each day that a witness is in attendance at court to testify at trial.

In the case of expert witnesses, the party seeking costs will be entitled to recover only the statutory fees and mileage for such witnesses unless the judge orders otherwise prior to the time

costs are sought.

Mileage will be allowed for witnesses at the statutory rate for all necessary travel within the district. Mileage will be allowed for out-of-state witnesses from the point of entering the district to the place of trial.

e. Fees for Exemplification and Copies of Papers Necessarily Obtained for Use in the Case. Reasonable fees for exemplification and copies of exhibit evidence such as charts, drawings, maps, photographs, movies, and models, etc., which were reasonably necessary to the presentation of the prevailing party's case will be allowed as costs. In taxing the costs the clerk will presume that exhibit evidence used at the trial was reasonably necessary to the presentation of the case, and that exhibit evidence not so used was not reasonably necessary to the presentation of the case.

f. Bond Premiums. The party entitled to recover costs shall ordinarily be allowed premiums paid on undertakings, bonds or security stipulations, where the same have been furnished by reason of express requirement of the law, or an order of the court or a judge thereof, where the same are reasonably required to enable the party to secure some right accorded the party in the action or proceedings. In taxing costs the clerk will presume that the premiums for all bonds which are on file and of record in the case are allowable as costs.

g. Other Costs. Items of costs not specifically mentioned in this Rule shall be taxed by the clerk in accordance with the laws of the United States.

h. Objections. Specific objections, supported by affidavits or other written evidence, may be made to any item of costs. The clerk shall thereupon tax the costs, and if there is no appeal, shall insert the amount of costs taxed in the blank left in the judgment, and also in the docket.

I. Review. A dissatisfied party may appeal upon written motion served within five (5)

calendar days of the clerk's decision as provided in Fed.R.Civ.P. 54(d). The motion shall specify all objections to the clerk's decision and the reasons for the objections. Appeals shall be heard by the court upon the same papers and evidence submitted to the clerk.

LR 54.2 - Jury Cost Assessment; Settlement Immediately Prior to Trial.

Pursuant to the court's authority under 28 U.S.C. § 2071 and Fed.R.Civ.P. 83, whenever any civil action scheduled for jury trial is settled or otherwise disposed of in advance of the date set for trial, then, except for good cause shown, juror costs, including marshal's fees, mileage, air fare, per diem, and other related costs, shall be assessed equally against the parties or otherwise assessed as directed by the court, unless the clerk's office has been notified in writing at least ten full business days prior to the day on which the action is scheduled for trial, in time to advise the jurors that it will not be necessary for them to attend. Failure to notify the clerk's office may subject counsel, in addition to the costs set forth above, to such sanctions as may be deemed appropriate by the court under the circumstances.

LR 56.1 - Summary Judgment Procedure.

The following procedures shall be followed with respect to motions for summary judgment:

a. The moving or cross-moving party shall file, together with its motion, a separate document entitled "Proposed Findings of Uncontroverted Fact." This document shall contain concise, separately numbered paragraphs setting forth all of the material facts upon which the party bases its motion and as to which the party in good faith believes there is no genuine dispute. Each paragraph shall contain citations to the opposing party's pleadings or to documentary

evidence, such as affidavits or exhibits, filed with the motion or otherwise part of the record in the case.

b. The opposing party shall file, together with its opposition or cross-motion, a separate document entitled "Statement of Genuine Issues." This document shall respond by reference to specific paragraph numbers of movant's proposed findings of uncontroverted fact as to which it claims there is a genuine dispute. The party shall state the precise nature of its disagreement and give its version of the events, supported by record citations, as above. The opposing party may also file proposed findings of uncontroverted fact as to any relevant matters not covered by the moving party's statement.

c. The parties may dispense with the documents called for in subdivisions 1. and 2., above, if they file, no later than the time of the initial motion, a comprehensive stipulation of all of the material facts upon which they intend to rely.

In determining any motion for summary judgment, the court will, absent persuasive reason to the contrary, deem the material facts claimed and adequately supported by the moving party to be established, except to the extent that such material facts are included in the Statement of Genuine Issues and are controverted by affidavit or other written or oral evidence.

LR 62.1 - Supersedeas Bonds

a. Nonresidents. Every nonresident filing a complaint shall within ten (10) calendar days after demand of an adverse party file with the complaint a bond for costs in the sum of $500 unless for good cause, on motion (which may be made ex parte), the court dispenses with the bond or fixes a different amount. The bond shall have sufficient surety and shall be conditioned to secure the payment of all costs of the action which the party ultimately may be required to pay to

any other party. After the bond is filed, any opposing party may raise objections to its form or to the sufficiency of the surety for determination by the clerk. If the bond is found to be insufficient, the court may order the filing of a sufficient bond within a specified time. If the order is not complied with, the clerk shall enter dismissal of the action as in a case of dismissal for want of prosecution.

b. Other Parties. On its own motion or a party's motion, the court may order any party to file a bond for costs in an amount and under conditions designated by the court.

c. Qualifications of Surety. Every bond for costs under these Rules must have as surety either (1) a cash deposit equal to the amount of the bond or (2) a corporation authorized by the Secretary of the Treasury of the United States to act as surety on official bonds under the Act of August 13, 1984 (28 Stat. 279), as amended, 6 U.S.C. §§1-13, or (3) two individual residents of the Northern Mariana Islands, each of whom owns real or personal property within the Northern Mariana Islands sufficient in value above encumbrances to justify the full amount of the suretyship, or (4) any insurance, surety, or bonding company licensed to do business in the Northern Mariana Islands.

d. Suits by Indigent Persons. At the time application is made, under laws allowing indigent persons leave to commence civil proceedings without pre-paying fees and costs or giving security for them, the applicant shall file a written consent that any recovery in the proceeding shall, as the court may direct, be paid to the clerk, who may pay unpaid fees and costs taxed against the plaintiff and, to plaintiff's attorney, the amount which the court allows or approves as compensation for the attorney's services.

VIII. Provisional and Final Remedies and Special Proceedings

LR 66.1 - Receiverships

a. Appointment of Receivers. Application for the appointment of a receiver may be made after the complaint has been filed and the summons issued.

1. Emergency Receivers. An emergency receiver may be appointed without notice to the party sought to be subjected to a receivership in accordance with the requirements and limitations of the Fed.R.Civ.P. 66. As soon thereafter as may be practicable, the party who obtained the emergency receivership shall seek appointment of a permanent receiver.

2. Permanent Receivers. A permanent receiver may be appointed after notice and hearing upon an order to show cause. This order shall be issued by a judge upon appointment of a temporary receiver or upon application of the plaintiff and shall be served on all parties. The defendant shall provide to the temporary receiver (or, if there is no temporary receiver, the plaintiff) within five (5) calendar days after being served with the order a list of defendant's creditors and their addresses. Not less than five (5) calendar days before the hearing, the temporary receiver (or, if none, the plaintiff) shall mail to the creditors listed a notice of hearing, and file proof of mailing.

3. Bond. A judge may require any receiver appointed to furnish a bond in an amount which the judge deems reasonable.

b. Employment of Experts. The receiver shall not employ an attorney, accountant, or investigator without an order of a judge. The compensation of all such persons shall be fixed by the judge.

c. Application for Receiver's Fees. An application for receiver's fees shall be made by a petition setting forth in reasonable detail the nature of the services rendered. Proceedings on fee

applications shall be heard in open court, unless all parties waive their appearance in writing.

d. Deposit of Funds. A receiver shall deposit all funds received in a depository designated by the judge, entitling the account with the name and number of the action. At the end of each month, the receiver shall deliver to the clerk a statement of account and the canceled checks.

e. Reports. Within thirty (30) calendar days of appointment, a permanent receiver shall file with the court a verified report and petition for instructions. The petition shall be heard on ten (10) calendar days' notice to all known creditors and parties. The report shall contain a summary of the operations of the receiver, an inventory of the assets and their appraised value, a schedule of all receipts and disbursements, and a list of all creditors, their addresses, and the amount of their claims. The petition shall contain the receiver's recommendation as to the continuance of the receivership and reason for the recommendations. At the hearing, the judge shall determine whether the receivership shall be continued and, if so, the judge shall fix the time for future reports of the receiver.

f. Notice of Hearings. The receiver shall give all interested parties at least ten (10) calendar days' notice of the time and place of hearings concerning:

1) Petitions for the payment of dividends to creditors;

2) Petitions for confirmation of sales of property;

3) Reports of the receiver;

4) Applications for fees of the receiver or of any attorney, accountant or investigator, with a statement of services performed and the fee sought; and,

5) Applications for discharge of the receiver.

X. District Courts and Clerks

LR 77.1 - Location and Hours of Court.

The Office of the Clerk of Court is located on the Second Floor of the Horiguchi Building, Beach Road, Garapan, Saipan. The mailing address is Post Office Box 500687, Saipan, MP 96950. The telephone number is (670) 236-2994; the facsimile number is (670) 236-2910. The chambers telephone number is (670) 236-2900; the chambers facsimile is (670) 236-2911.

The regular hours shall be from 8:00 a.m. to 11:30 a.m. and 12:30 p.m. to 3:30 p.m. each day except Saturdays, Sundays, legal holidays and other days or times ordered by the court. Nothing in this Rule precludes the filing of papers as provided in Fed.R.Civ.P. 77.

LR 77.4 - Sessions of the Court.

The court shall be in continuous session in Saipan, Commonwealth of the Northern Mariana Islands. The court may order sessions to be held at places within the Commonwealth other than Saipan.

LR 77.6 - Court Library.

The Chief Judge's chambers library is primarily for the use of judges and court personnel. Attorneys and *pro se* litigants may use the library in accordance with such rules and regulations as may be adopted by the court. No books or other research materials may be removed from the law library.

LR 77.7 - Ex Parte Communication With Judges.

The court will not receive letters or other communications from counsel which do not indicate on their face that copies have been sent to opposing counsel. Ex parte applications for orders, either by mail, by telephone, or in person, will not be granted unless it is indicated that counsel has made reasonable attempts to notify the adverse party. See also LR 5.2.

LR 79.1 - Custody of Files and Exhibits.

a. Delivery to Person Entitled. In all cases in which final judgment has been entered and time has expired for filing a motion for new trial, a motion for rehearing, or a notice of appeal, upon ten (10) calendar days' written notice to all parties, any party or person may without court order withdraw any exhibit or deposition which the party or person originally produced unless, within ten (10) calendar days after the written notice required by this subsection, another party or person files a competing notice of claim. The court shall determine the person entitled and order delivery accordingly. For good cause, the court may allow withdrawal or determine competing claims in advance of the time specified in subsection b. of this Rule.

b. Unclaimed Exhibits. If exhibits and depositions are not withdrawn within forty (40) calendar days after the time when notice may first be given under subdivision a. of this Rule, the clerk may destroy them or make other disposition as the clerk sees fit.

XI. General Provisions; Admission to Bar; Standards of Professional Conduct; Communications to Court from Counsel; Appearances, Withdrawal, and Substitution of Counsel

LR 83.1 - Local Rulemaking.

These Rules have been promulgated pursuant to the authority granted the court by 28 U.S.C. § 2071.

LR 83.2 - Free Press - Fair Trial Proceedings - Cameras in the Courtroom - Broadcasting, Television, Recording or Photographing Judicial and Grand Jury Proceedings.

In accordance with General Order 95-0002 (Mar. 8, 1995), it is prohibited to make contemporaneous broadcasts of proceedings from the courtroom or other court facilities. "Courtroom and other court facilities" shall include the courtroom, the grand jury room, and the 1st and 2nd floors of the Horiguchi Building. No electronic audio or video recording devices are permitted in or around the areas delineated above. Any person found in violation of the Rule may be arrested and charged with contempt of the court's order and punished accordingly.

Court personnel, including but not limited to marshals, clerks and deputies, law clerks, messengers, interpreters and court reporters, shall not disclose to any person information relating to any pending proceeding that is not part of the public records of the court, without specific authorization by the court.

LR 83.3 - Practice in this Court; Dress Code.

Except as otherwise provided by these Rules, only members of this court's bar or an attorney otherwise authorized by these Rules to practice before this court may appear for a party, sign stipulations, receive payment or enter satisfaction of a judgment, decree or order. Nothing in these Rules shall prohibit an individual from appearing in propria persona.

All attorneys appearing in open court shall be suitably dressed. Minimum acceptable dress for male practitioners shall consist of a dress shirt, necktie, dress slacks, socks and shoes. Minimum acceptable dress for female practitioners shall consist of a dress, slacks, or skirt and blouse and shoes. The court may refuse to hear attorneys whose appearance does not conform to this Rule.

LR 83.5 - Admission to this Court's Bar.

a. Admission to Practice. Admission to and continued membership in this court's bar is limited to attorneys of good moral character who are active members in good standing of the Commonwealth Supreme Court Bar or, if admitted pro hac vice, of any United States Court or the highest court of any State, Territory, or Commonwealth of the United States.

b. Procedure for Admission.

1. Each applicant for admission to this court's bar shall file with the clerk a verified petition for admission, stating the applicant's full name, residence address, office address, the applicant's law school and date of graduation, the names of all courts before which the applicant is admitted to practice, and the respective dates of admission to those courts. An applicant must be a member in good standing of the Commonwealth Supreme Court Bar and all other bars of which he or she is a member. The applicant shall also make a payment of $100 to the clerk of court, by

cash or check. If by check, the check shall be made payable to "Clerk, District Court, NMI."

If the clerk finds that the petition for admission complies with these requirements, the clerk or his authorized deputy shall administer the oath of admission to the applicant and shall issue to the applicant a certificate of admission. The clerk shall refer to the judge for further instructions any petition about which the clerk has any question.

The oath of admission shall be as follows:

> I solemnly swear (or affirm) that I will support the Constitution and laws of the United States; that I will bear true allegiance to the United States; that I will maintain due respect for United States Courts and Judicial Officers; and that I will conduct myself conscientiously as an attorney of this Court.

2. Any attorney so admitted and any attorney previously admitted who would now be eligible for admission under subsection a. of this Rule shall be deemed to be a local member of this court's bar while residing in and having an office in the Northern Mariana Islands.

3. Any attorney admitted to practice before this court, but who does not reside in and have a full-time, staffed office in the Northern Mariana Islands, may practice only by associating local counsel as required by subsection f. of this Rule, unless the requirement is waived for good cause shown.

c. Attorneys for the United States and the Commonwealth. Any attorney who is a member in good standing of the bar of the highest court of any state and who is employed by the United States, the Commonwealth government, the Office of the Public Defender, Northern Mariana Islands Protection and Advocacy Systems, Inc., or Micronesian Legal Services Corporation shall be eligible to practice before this court while so employed. Every attorney allowed to appear in this court under this subsection shall comply with the requirements of subsection b.1., above, except that no fee need be paid and the petition shall be for temporary

admission, only. (Amendment to include Northern Mariana Islands Protective and Advocacy Systems, Inc. effective November 1, 1999.)

d. Pro Hac Vice. Upon written application approved in the judge's discretion, an attorney who is a member in good standing of the bar of any United States court or of the highest court of any State, Territory, or Commonwealth of the United States, who is of good moral character, and who has been retained to appear in this court, may appear and participate in a particular case subject to the conditions of this Rule. Unless otherwise authorized by the United States Constitution or Acts of Congress, an attorney is ineligible to practice under this section if: (I) the attorney resides in the Northern Mariana Islands; or (ii) the attorney is regularly employed in the Northern Mariana Islands, except by the CNMI government; or (iii) the attorney regularly engages in business, professional, or other activities in the Northern Mariana Islands.

The pro hac vice application shall be presented to the clerk and shall state under penalty of perjury: (I) the attorney's residence and office address; (ii) the attorney's law school and date of graduation; (iii) by what court(s) the attorney has been admitted to practice and the date(s) of admission; (iv) that the attorney is in good standing and eligible to practice in all court(s) to which the attorney has been admitted; (v) that the attorney is not currently suspended or disbarred in any court; and (vi) if the attorney has concurrently or within the year preceding the current application made any pro hac vice application in this court, the attorney must state the title and the number of each matter wherein the attorney made application, the date of application, and whether or not the application was granted. The attorney shall also designate in the application a member of this court's bar with whom the court and opposing counsel may readily communicate regarding the conduct of the case and upon whom papers may be served. The pro hac vice applicant shall file with the application the address, telephone number, and a written consent from the attorney's

local attorney designee. See also f., infra.

The pro hac vice application shall also be accompanied by payment of $100 to the clerk of court, by cash or check. If by check, the check shall be made payable to "Clerk, District Court, NMI." If the pro hac vice application is denied, the court may refund any or all of the assessment paid by the attorney. If the application is granted, the attorney is subject to the court's jurisdiction with respect to the attorney's conduct to the same extent as a member of this court's bar.

e. Notice of Change of Status. An attorney who is a member of this court's bar or who practices in this court under subsection d. of this Rule shall promptly notify the court of any change or potential for a change in his or her status in another jurisdiction which could make the attorney ineligible either for membership in this court's bar or to practice in this court under subsection d. of this Rule. See, also, Disciplinary Rules, attached hereto as Appendix A.

f. Designation of Local Counsel. Due to the great distances between this district and all other districts except the District of Guam, and due further to the time and date differences between the mainland United States, Hawaii, and the Northern Mariana Islands, an attorney who is not a member of this court's bar and who is applying to practice before this court under subsections b.3 or d. of this Rule shall associate as co-counsel an attorney with a local office who is an active member in good standing of this court's bar. The associated local counsel shall at all times meaningfully participate in the preparation and trial of the case with the full authority and responsibility to act as attorney of record for all purposes. Any document required or authorized to be served on counsel by the Federal Rules of Civil or Criminal Procedure, or by these Rules, may be served upon the associated local counsel and such service will be as effective as if served on the off-island counsel. Service upon associated local counsel shall be deemed proper and effective service unless excused by the judge. Local counsel shall attend all proceedings related to

the case for which counsel is associated.

g. Appearances, Withdrawal, and Substitution of Counsel

1. Appearances. Unless the court orders otherwise, a party who has appeared through counsel in a proceeding may not thereafter appear or act in his or her own behalf in the proceeding unless the court first enters an order of substitution after notice to the party's attorney and to all other parties. The court may in its discretion hear a party in open court notwithstanding the fact that the party has appeared or is represented by an attorney.

2. Persons Appearing Without An Attorney (In Propria Persona). Any person representing himself or herself without an attorney must appear personally for such purpose and may not delegate that duty to any other person, including a spouse. Any person so representing himself or herself is bound by these Rules of court, and by the Federal Rules of Civil and Criminal Procedure. Failure to comply may be ground for dismissal or judgment by default.

3. Substitutions. When counsel for any party ceases to act for the party, the party shall appear personally or appoint another attorney either: (a) by a written substitution of attorney signed by the party, the attorney ceasing to act, and the newly-appointed attorney; or (b) by a written designation filed with the clerk and served upon the attorney ceasing to act unless counsel of record is deceased, in which event the designation of new counsel shall so state. The authority and responsibility of counsel of record shall continue for other purposes, until the court approves the substitution.

4. Withdrawal from Case. An attorney may withdraw from a civil or criminal case only after order of the court upon motion and for good cause shown, and after serving notice upon his or her client and opposing counsel.

LR 83.6 - Discipline; Sanctions for Unauthorized Practice.

a. Discipline. Disciplinary matters shall be conducted in accordance with the Disciplinary Rules of this court, attached hereto as Appendix A.

b. Prohibition of Unauthorized Practice. A person shall neither exercise the privileges of a member of this court's bar nor otherwise represent entitlement to exercise those privileges if that person:

1. is not admitted to this court's bar; or

2. has not obtained leave of court to appear in a proceeding; or

3. is disbarred or suspended from practice before this court.

c. Sanctions. A person who violates subsection b. of this Rule may be held in contempt of court and appropriately sanctioned.

NOTE: The court's local rules will generally apply to filings in criminal matters, except as specifically noted herein below or unless the interests of justice require the court to order otherwise. These local criminal rules shall be cited "LCrR __."

LCrR 12.1 Time for Filing Pretrial Motions.

All motions under Fed.R.Crim.P. 12(b), including discovery motions, shall be filed within fourteen (14) days after entry of plea. The court upon motion and for good cause shown may extend the time for filing motions. All other aspects of motion practice are governed by the court's Local Rules.

LCrR 17.1.1 Pretrial Conference.

On request of any party or on the court's motion, one or more pretrial conferences may be held. The agenda shall consist of the following items, so far as applicable:

a. Production of statements or reports of witnesses under the Jencks Act, 18 U.S.C. §3500;

b. Production of grand jury testimony of witnesses intended to be called at the trial;

c. Production of evidence favorable to the defendant on the issue of guilt or punishment as required by Brady v. Maryland, 373 U.S. 83 (1963), and related authorities;

d. Stipulation of facts which may be deemed proved at the trial;

e. Appointment of interpreters under Fed.R.Crim.P. 28;

f. Dismissal of certain counts and elimination of certain issues, e.g., insanity, liability, and statute of limitations;

g. Severance of the trial of any co-defendant or joinder of any related case;

h. Use or identification of an informant, use of lineup or other identification evidence, use of evidence of prior convictions of defendant or any witness;

I. Pretrial exchange of lists of witnesses, expert or other, intended to be called in person or by deposition to testify at trial, except those who may be called only for impeachment or rebuttal;

j. Pretrial resolution of objections to exhibits or testimony to be offered at trial;

k. Preparation of trial briefs on legal issues likely to arise at trial;

l. Scheduling of the trial and the order of witnesses;

m. Discussion of proposed jury instructions and voir dire jury examination.

Habeas Corpus Petitions and Motions Under 28 U.S.C. § 2255

NOTE: These local habeas corpus rules shall be cited "LR-HC ___."

LR-HC 1 Petitions for writs of habeas corpus pursuant to 28 U.S.C. § 2255 shall be subject to the provisions of this rule unless otherwise ordered by the court.

a. The petition shall be in writing, signed under penalty of perjury, accompanied by all Commonwealth court opinions and judgments in the case. If presented in propria persona, the petition shall be in the form and in accordance with instructions approved by the court. Copies of the forms and instructions shall be supplied by the clerk upon request. A petitioner who is unable to furnish the opinions and judgments in the case shall state why they are unavailable and where they may be obtained. If they are not furnished by petitioner, the respondent shall furnish them to the court or state why such documents are not supplied.

b. All petitions by Commonwealth prisoners shall state with specificity that all issues

raised in the petition:

1. Have been raised previously before all Commonwealth tribunals in which the issues could be heard, to the exhaustion of the petitioner's Commonwealth remedies, or

2. Have not been raised before all Commonwealth tribunals in which the issues could be heard, along with all facts which justify the failure to exhaust Commonwealth remedies.

c. If the petition requests an evidentiary hearing, it shall state that:

1. Each issue of fact to be raised at the hearing has not been the subject of a Commonwealth court evidentiary hearing in which a finding was made as to the fact in question, or

2. For those issues that were raised in a prior Commonwealth court evidentiary hearing, the Commonwealth hearing was not a full and fair consideration of the issue of fact in question, along with all reasons why the Commonwealth hearing was inadequate.

d. All petitions shall state whether or not petitioner has previously sought relief arising out of the same matter from this or any other federal court, together with the ruling and reasons given for denying the relief.

e. If the petitioner has previously filed a petition for relief or for a stay of enforcement in the same matter in this court, the new petition shall be assigned to the judge who considered the prior matters.

f. If a hearing in which petitioner will be represented by counsel is granted by the court, a pretrial conference of court and counsel shall be held and a pretrial order filed. The pretrial order should list all grounds for upsetting the conviction or sentence which appear relevant, whether or not raised in the petition or motion, as issues of fact to be tried at the hearing, along with related issues of law.

g. In its final decision, the court should make a specific finding on each issue of fact

listed in the pretrial order, and should rule expressly on each issue of law, stating the reasons for the ruling.

h. If relief is granted on the petition of a Commonwealth prisoner, or if any stay of execution of the Commonwealth court judgment is issued by this court, the clerk shall forthwith notify the Commonwealth authority having jurisdiction over the prisoner of the action taken.

I. If relief is denied such Commonwealth prisoner and a certificate of probable cause is issued, the court will also grant a stay of execution to continue in effect until such time as the Court of Appeals acts in the matter; and the clerk of this court shall forthwith notify the clerk of the Court of Appeals of the action taken.

Bankruptcy Rules

NOTE: The court's Local Rules apply to all bankruptcy matters, unless the interests of justice require otherwise. The local bankruptcy rules shall be cited as, e.g., "LBR 1001-1."

LBR 1001-1 Bankruptcy Division; Format of Pleadings; Forms.

All petitions, papers, pleadings, documents, proceedings, and motions filed under Title 11 of the U.S. Code shall be filed in the United States District Court for the Northern Mariana Islands, Bankruptcy Division.

Form of Pleadings/Cover Sheets. Pleadings filed with the bankruptcy division shall conform to the requirements of LR 5.1 except that the title of the court shall read:

United States District Court
for the Northern Mariana Islands

Bankruptcy Division

and the bankruptcy case number and the adversary proceeding number shall both be included, where applicable, in the space to the right of center, opposite the name of the action or proceeding.

All bankruptcy filings shall be accompanied by a completed cover sheet.

See LBR 9009-1 re use of official bankruptcy forms.

LBR 1007-1 Master Mailing Matrix.

The debtor shall file on a form approved by the clerk a master mailing list of the names and mailing addresses of all creditors listed on "Schedule A - Statement of All Liabilities of Debtor" concurrently with, and as an integral part of, the schedules of debts and assets. The debtor shall include his or her name and address and that of his or her attorney and the United States Trustee as the first items on the master mailing list. The debtor shall then list creditors in

the same order as listed on Schedule A and shall also include names and addresses of parties to pending lawsuits indicated in the debtor's "Statement of Financial Affairs." If the debtor is a partnership or a corporation the names and addresses of all general partners or corporate officers shall also be included on the list.

A supplement to the master list shall be submitted with the filing of any amended schedule of creditors. The supplement shall only list the complete names and addresses of the additional creditors and corrections to the master list.

Accuracy and completeness in preparing the master list and any supplement thereto are the responsibility of the debtor and/or debtor's attorney. Notices shall be mailed to those listed on the master list at the addresses shown and to such governmental entities as are required by law. The master mailing list shall contain a declaration by the debtor and/or debtor's counsel attesting to the completeness and correctness of the list.

Any party who mails a notice to creditors and parties in interest shall have the responsibility of comparing the names and addresses shown on the master mailing matrix to the names and addresses shown on schedules, amendments to schedules, requests for notices, any related adversary files, and proofs of claim filed by creditors to ensure accuracy and completeness of the master mailing matrix prior to the mailing of such notice.

Note: All notices required to be mailed under this Rule to a creditor, equity security holder, or indenture trustee shall be addressed as his or her authorized agent may direct in a request filed with the court; otherwise, to the address shown in the list of creditors or the schedule, whichever is filed later. But if a different address is stated in a proof of claim duly filed, that address should be used. See, Bankruptcy Rule 2002(g).

If one of the following specifically named agencies is a creditor of the debtor(s), the schedule of creditors and matrix of creditors submitted with any petition for relief under Title 11

shall list the agency at the following address:

DEPARTMENT OF AGRICULTURE

U.S. Department of Agriculture
Office of the General Counsel
211 Main Street, Suite 1060
San Francisco, CA 94105-1924

FARMERS HOME ADMINISTRATION (FmHA)

Farmers Home Administration
Suite 407, Pacific News Building
238 Archbishop Flores Street
Hagatna, Guam 96910

DEPARTMENT OF EDUCATION

Regional Director, Region IX
Department of Education
50 United Nations Plaza
San Francisco, CA 94102
(Debtor's social security number shall be included)

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the General Counsel
Department of Health and Human Services
200 Independence Avenue S.W.
Washington, D.C. 20201
(Debtor's social security number shall be included)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Chief Counsel
U.S. Department of Housing and
Urban Development
300 Ala Moana Blvd., Room 3318
Honolulu, HI 96850-4991

INTERNAL REVENUE SERVICE (IRS)

Internal Revenue Service
Office of Assistant Commissioner International
Special Procedures Function

IN:C:C
Mercantil Plaza
Avenida Ponce de Leon Bldg.
Hato Rey, PR 00918

UNITED STATES POSTAL SERVICE

Regional Post Master General
Attn: Office of Field Legal Service
U.S. Postal Service
850 Cherry Ave.
San Bruno, CA 94093

SMALL BUSINESS ADMINISTRATION (SBA)

District Counsel
U.S. Small Business Administration
300 Ala Moana Blvd., Room 2213
Post Office Box 50207
Honolulu, HI 96850

VETERANS ADMINISTRATION (VA)

District Counsel
Veterans Administration
300 Ala Moana Blvd.
P.O. Box 50188
Honolulu, HI 96850

When a creditor that is a department, agency, or instrumentality of the United States is listed, the United States Attorney's office shall also be listed next to the name of the agency holding the claim in each schedule of creditors and matrix of creditors and shall also be sent to the following address:

United States Attorney's Office
Horiguchi Building - 3rd Floor
P.O. Box 500377
Saipan, MP 96950

LBR 2002-1 Responsibility for Providing Notice.

a. General. Unless otherwise specifically directed, the petitioner, movant, or reporting

entity shall be responsible for providing notice of any filing to all parties in interest, including the trustee, if any, and any entity which has filed a written request for notice, all in accordance with Bankruptcy Rule 2002.

b. Notice of § 341(a) Meetings. When a bankruptcy petition is filed with the clerk, a copy shall be transmitted immediately to the U.S. Trustee who, within three (3) working days of receipt, shall notify the clerk of the date on which the § 341(a) meeting has been set. The clerk shall then notify all interested parties of the date of the § 341(a) meeting.

c. Corporate Petitions.

1. When a voluntary petition is filed by a corporation there shall be attached to the petition as an exhibit a true copy of the resolution of the petitioner's board of directors authorizing the filing of the petition.

2. A corporation or unincorporated association (including a partnership) may not file a petition or otherwise appear pro se in any case or proceeding, except for filing a proof of claim or a reaffirmation agreement, if signed by an officer of the corporation, partner of the partnership, or member of the unincorporated association.

d. Notice of Orders and Opinions. Unless the court directs otherwise, the clerk's office will provide copies of all orders and opinions.

e. Required Notice When Schedules Are Filed After the Date The Petition is Filed.

1. Chapter 7, 11 and 12 Cases: When schedules and statements required by Bankruptcy Rule 1007 are filed with the court after the date the debtor's petition was filed, or when such schedules or statements are amended pursuant to Bankruptcy Rule 1009, the debtor shall serve on the trustee and any case trustee (if different than the U.S. Trustee) a copy of the schedules and statements, or amendments thereto.

2. Chapter 13 Cases. When the Chapter 13 statement required by Bankruptcy Rule 1007

or Chapter 13 plan required by Bankruptcy Rule 3015 is filed with the court, or when amended pursuant to Bankruptcy Rule 1009, the debtor shall serve a copy of the Chapter 13 statement and/or plan on the U.S. Trustee.

3. In addition, Debtor shall give notice of the date of filing of the petition to any entity not named in the original lists, statements, and schedules filed with the petition when the case was commenced. If applicable, the notice shall be accompanied by: (a) a copy of the "Order and Notice of Section 341(a) Meeting"; and (b) any Discharge of Debt or Notice of Order Confirming Plan.

4. Debtor shall attach to any document filed after the date of the original petition a certification showing compliance with this Rule.

f. Notice to the United States Trustee.

1. Uncontested Motions & Notices of Intent. The moving party shall serve on the U.S. Trustee a copy of the following motions and notices of intent and any documents in support thereof:

(a) Intended abandonment of property (by debtor or trustee) as governed by Bankruptcy Rule 6007;

(b) Intended compromise or settlement of controversy (by debtor or trustee) as governed by Bankruptcy Rule 9019;

(c) Motion to dismiss Chapter 7, 11, or 12 cases as governed by Bankruptcy Rule 1017(a). In addition, such motion shall set forth the terms of any arrangements or agreements with any entity in consideration of the dismissal;

(d) Motion for relief from automatic stay, as governed by Bankruptcy Rule 4001.

2. Contested Motions. The moving party shall serve on the U.S. Trustee a copy of any motions and notices of hearing given pursuant to Bankruptcy Rule 9014.

3. Ex Parte Motions. Movant shall serve on the U.S. Trustee and the case trustee (when that trustee is not a member of the U.S. Trustee's staff), a copy of all ex parte motions and proposed orders filed in bankruptcy cases.

4. No Limitation of Other Service Requirements. Nothing in this Local Rule shall limit or modify the requirements of service upon the U.S. Trustee of all pleadings, motions, applications or other legal documents as set forth in Bankruptcy Rules X-1008 and X-1009.

The address of the United States Trustee is

U.S. Department of Justice
Office of the U.S. Trustee
1132 Bishop Street - Suite 602
Honolulu, HI 96813

Service upon the United States Trustee is in addition to service required upon any case trustee (where that trustee is not a member of the U.S. Trustee's staff) or other party in interest as set forth in the Bankruptcy Rules.

g. Summons and Notice of Hearing. Movant must mail or otherwise properly serve summons and notice of hearing after the dates and proper signatures have been supplied by the court.

h. Notice to Other Courts. Within ten days of the filing of the petition, the debtor is required to give written notification to each court or administrative tribunal in which there is pending litigation involving the debtor. Copies of that written notification shall be mailed simultaneously by the debtor to all attorneys of record in the pending lawsuits.

LBR 2015-1 Operating Reports For Chapter 11.

A Chapter 11 debtor-in-possession shall comply with all requirements of the U.S. Trustee's Office, particularly as to the filing of monthly operating reports.

LBR 9009-1 Use of Official Forms.

The official forms prescribed by the Judicial Conference of the United States shall be used, with alterations as may be appropriate. Forms may be combined and their contents rearranged to permit economy in their use.

Rules of Admiralty Procedure

NOTE: Local admiralty rules shall be cited "LAR ___."

LAR A - Scope and Definitions

1. Scope. The local admiralty rules apply only to civil actions that are governed by Rule A of the Supplemental Rules for Certain Admiralty and Maritime Claims (Supplemental Rule or Rules.) All other local rules are applicable in these cases, but to the extent that another local rule is inconsistent with the applicable local admiralty rule, the local admiralty rule shall govern.

2. Definitions. As used in these rules, "judicial officer" means a Judge of the District Court; "clerk of court" means the deputy clerk or Clerk of this Court; and, "marshal" means the United States Marshal and deputies.

LAR B - Attachment and Garnishment; Affidavit that Defendant Is Not Found Within the District.

The affidavit required by Federal Supplemental Rule B(1) to accompany the complaint shall list the efforts made by or on behalf of plaintiff to find and serve the defendant within the district. The phrase "not found within the district" in Supplemental Rule B(1) means that, in an in personam action, the defendant cannot be served with the summons and complaint as provided in Fed.R.Civ.P. 4(d).

LAR C - Actions In Rem; Special Provisions

1. Undertakings in Lieu of Arrest. If, before or after commencement of suit, plaintiff accepts any written undertaking to respond on behalf of the vessel or other property sued in return for his or her foregoing the arrest or stipulating to the release of such vessel or other property, the

undertaking shall become a defendant in place of the vessel or other property sued and be deemed referred to under the name of the vessel or other property in any pleading, order or judgment in the action referred to in the undertaking.

2. Intangible Property. The summons issued pursuant to Supplemental Rule C(3) shall direct the person having control of intangible property to show cause no later than ten (10) days after service why the intangible property should not be delivered to the Court to abide the judgment. A judicial officer for good cause shown may lengthen or shorten the time. Service of the summons has the effect of an arrest of the intangible property and brings it within the control of the Court. The person who is served may deliver or pay over to the marshal the intangible property proceeded against to the extent sufficient to satisfy the plaintiff's claim. If such delivery or payment is made, the person served is excused from the duty to show cause. Claimants of the property may show cause as provided in Supplemental Rule C(6) why the property should not be delivered to or retained by the Court.

3. Notice of Action and Arrest.

a. Publication. The notice required by Supplemental Rule C(4) shall be published once in a local newspaper of general circulation and plaintiff's attorney shall file a copy of the notice as it was published with the Clerk. The notice shall contain:

(1) The Court name, title, and number of the action;

(2) The date of the arrest;

(3) The identity of the property arrested;

(4) The name, address, and telephone number of the attorney for plaintiff;

(5) A statement that the claim of a person who is entitled to possession or who claims an interest pursuant to Supplemental Rule C(6) must be filed with the Clerk and served on the attorney for plaintiff within ten (10) days after publication;

(6) A statement that an answer to the complaint must be filed and served within twenty (20) days after publication and that, otherwise, default may be entered and condemnation ordered;

(7) A statement that applications for intervention under Fed.R.Civ.P. 24 by persons claiming maritime liens or other interests shall be filed within the time fixed by the Court; and

(8) The name, address, and telephone number of the marshal.

b. Filing of Proof of Publication. Plaintiff shall cause to be filed with the Clerk no later than thirty (30) days after the date of publication sworn proof of publication by or on behalf of the publisher of the newspaper in which notice was published, together with a copy of the publication or reproduction thereof.

4. Default In Action In Rem.

a. Notice Required. A party seeking a default judgment in an action in rem must show that due notice of the action and arrest of the property has been given (1) by publication as required in Local Rule C.3, (2) by service upon the master or other person having custody of the property, and (3) by service under Fed.R.Civ.P. 5(b) upon every other person who has not appeared in the action and is known to have an interest in the property.

b. Persons with Recorded Interests. (1) If the defendant property is a vessel documented under the laws of the United States, plaintiff must attempt to notify all persons named in the United States Coast Guard certificate of ownership. (2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, plaintiff must attempt to notify the persons named in the records of the issuing authority. (3) If the defendant property is of such character that there exists a governmental registry of recorded property interests or security interests in the property, the plaintiff must attempt to notify all persons named in the records of each such

registry.

c. Failure to Give Notice. Failure to give notice as provided by this rule shall be grounds for setting aside the default under applicable rules but shall not affect title to property sold pursuant to order of sale or judgment.

5. Entry of Default and Default Judgment. After the time for filing an answer has expired, the plaintiff may apply for entry of default under Fed.R.Civ.P. 55(a). Default will be entered upon a showing that:

(a) Notice has been given as required by Local Rule C.4(a); and,

(b) Notice has been attempted as required by Local Rule C.4(b), where appropriate; and,

(c) The time for answer has expired; and,

(d) No one has appeared to claim the property.

Judgment may be entered under Fed.R.Civ.P. 55(b) at any time after default has been entered.

LAR D - Possessory, Petitory, And Partition Actions

1. Return Date. In an action under Supplemental Rule D, a judicial officer may order that the claim and answer be filed on a date earlier than twenty (20) days after arrest. The order may also set a date for expedited hearing of the action.

LAR E - Actions In Rem And Quasi In Rem: General Provisions

1. Itemized Demand for Judgment. The demand for judgment in every complaint filed under Supplemental Rule B or C, except a demand for a salvage award, shall allege the dollar amount of the debt or damages for which the action was commenced. The demand for judgment

shall also allege the nature of other items of damage. The amount of the special bond posted under Supplemental Rule E(5)(a) may be based upon these allegations.

2. Verification of Pleadings. Every complaint in Supplemental Rules B, C, and D actions shall be verified upon oath or solemn affirmation, or in the form provided by 28 U.S.C. § 1746, by a party or by an authorized officer of a corporate party. If no party or authorized corporate officer is present within the district, verification of a complaint may be made by an agent, attorney in fact, or attorney of record, who shall state the sources of the knowledge, information and belief contained in the complaint; declare that the document verified is true to the best of that knowledge, information, and belief; state why verification is not made by the party or an authorized corporate officer; and state that the affiant is authorized so to verify. A verification not made by a party or authorized corporate officer will be deemed to have been made as if verified personally by the party. If the verification was not made by a party or authorized corporate officer, any interested party may move, with or without requesting a stay, for the personal oath of a party or an authorized corporate officer, which shall be procured by commission or as otherwise ordered.

3. Review by Judicial Officer.

(a) Authorization to Issue Process. Except in actions by the United States for forfeitures, before the Clerk will issue a summons and process of arrest, attachment, or garnishment to any party, including intervenors, under Supplemental Rules B and C, the pleadings, the affidavit required by Supplemental Rule B, and accompanying supporting papers must be reviewed by a judicial officer. If the judicial officer finds the conditions set forth in Supplemental Rule B or C appear to exist, as appropriate, the judicial officer shall authorize the Clerk to issue process. Supplemental process or alias process may thereafter be issued by the Clerk upon application without further order of the Court.

(b) Exigent Circumstances. If the plaintiff or his or her attorney certifies by affidavit submitted to the Clerk that exigent circumstances make review impracticable, the Clerk shall issue a summons and warrant of arrest or process of attachment and garnishment. In actions by the United States for forfeiture for federal statutory violations, the Clerk, upon filing of the complaint, shall forthwith issue a summons and warrant for the arrest of the vessel or other property without requiring a certification of exigent circumstances.

(c) Personal Appearance. Unless otherwise required by the judicial officer, the review by the judicial officer will not require the presence of the applicant or its attorney but shall be based upon the pleadings and other papers submitted on behalf of that party.

(d) Order. Upon approving the application for arrest, attachment, or garnishment, the judicial officer will issue an order to the Clerk authorizing the Clerk to issue an order for arrest, attachment, or garnishment. The proposed form of order authorizing the arrest, attachment, or garnishment, and the order of arrest, attachment, or garnishment shall be submitted with the other documents for review.

(e) Request for Review. Except in cases of exigent circumstances, application for review shall be made by filing a "Notice of Request For Review In Accordance With Supplemental Rule B or C" with the Clerk and stating therein the process sought and any time requirements within which the request must be reviewed. The Clerk shall contact the judicial officer to whom the matter is assigned to arrange for the necessary review. It will be the duty of the applicant to ensure that the application has been reviewed and, upon approval, presented to the Clerk for issuance of the appropriate order.

4. Process Held in Abeyance. If a party does not wish the process to be issued at the time of filing the action, the party shall request that issuance of process be held in abeyance. It will not be the responsibility of the Clerk or the marshal to ensure that process is issued at a later

date.

5. Arrest by Marshal Required. Only a marshal shall arrest or attach a vessel, cargo or other tangible property.

6. Instructions to the Marshal. The party who requests a warrant of arrest or process of attachment or garnishment shall provide instructions to the marshal.

7. Property in Possession of United States Officer. When the property to be attached or arrested is in the custody of an employee or officer of the United States, the marshal will deliver a copy of the complaint and warrant of arrest or summons and process of attachment or garnishment to that officer or employee if present, and otherwise to the custodian of the property. The marshal will instruct the officer or employee or custodian to retain custody of the property until ordered to do otherwise by a judicial officer.

8. Security for Costs. In an action under the Supplemental Rules, a party may move upon notice to all parties for an order to compel an adverse party to post security for costs with the Clerk pursuant to Supplemental Rule E(2)(b). Unless otherwise ordered, the amount of security shall be $500. The party so ordered shall post the security within five (5) days after the order is entered. A party who fails to post security when due may not participate further in the proceedings. A party may move for an order increasing the amount of security for costs.

9. Adversary Hearing. The adversary hearing following arrest or attachment or garnishment that is called for in Supplemental Rule E(4)(f) shall be conducted upon three days written notice to plaintiff, unless otherwise ordered. This rule shall have no application to suits for seamens' wages when process is issued upon a certification of sufficient cause filed pursuant to 46 U.S.C. §§ 603 and 604 or to actions by the United States for forfeitures.

10. Appraisal. An order for appraisal of property so that security may be given or altered will be entered by the Clerk at the request of any interested party. If the parties do not agree in

writing upon an appraiser, a judicial officer will appoint the appraiser. The appraiser shall be sworn to the faithful and impartial discharge of the appraiser's duties before any federal or state officer authorized by law to administer oaths. The appraiser shall give one day's notice of the time and place of making the appraisal to counsel of record. The appraiser shall promptly file the appraisal with the Clerk and serve it upon counsel of record. The appraiser's fee will be paid by the moving party, unless otherwise ordered or agreed, but it is a taxable cost of the action.

11. Security Deposit for Arrest or Attachment of Vessels. The first party who seeks arrest or attachment of a vessel or property aboard a vessel shall deposit with the marshal the sum estimated by the marshal to be sufficient to cover the expenses of the marshal including, but not limited to dockage, keepers, maintenance, and insurance for at least ten (10) days. The marshal is not required to execute process until the deposit is made. The party shall advance additional sums from time to time as requested to cover the marshal's estimated expenses until the property is released or disposed of as provided in Supplemental Rule E.

12. Intervenors' Claims.

(a) Presentation of Claim. When a vessel or other property has been arrested, attached or garnished, and is in the hands of the marshal or custodian substituted therefor, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint, and not by filing an original complaint, unless otherwise ordered by a judicial officer. The Clerk shall forthwith deliver a conformed copy of the complaint in intervention and the intervenor's warrant of arrest or process of attachment or garnishment to the marshal, who shall deliver the same to the vessel or custodian of the property. Intervenors shall thereafter be subject to the rights and obligations of parties, and the vessel or property shall stand arrested, attached, or garnished by the intervenor. An intervenor shall not be required to advance a security deposit to the marshal.

(b) Sharing Marshal's Fees and Expenses. An intervenor shall owe a debt to the first plaintiff, enforceable on motion, consisting of the intervenor's share of the marshal's fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims. If a party plaintiff permits vacation of an arrest, attachment, or garnishment, remaining plaintiffs share the responsibility to the marshal for fees and expenses in proportion to the remaining claims and for the duration of the marshal's custody because of each claim.

13. Custody of Property.

(a) Safekeeping of Property. When a vessel, cargo, or other property is brought into the marshal's custody by arrest or attachment, the marshal shall arrange for adequate safekeeping, which may include the placing of keepers on or near the vessel. Upon motion a substitute custodian in place of the marshal may be appointed by order of the Court.

(b) Insurance. The marshal may procure insurance to protect the marshal, his or her deputies, keepers, and substitute custodians, from liabilities assumed in arresting and holding the vessel, cargo, or other property, and in performing whatever services may be undertaken to protect the vessel, cargo, or other property, and to maintain the Court's custody. The party who applies for removal of the vessel, cargo, or other property to another location, for designation of a substitute custodian, or for other relief that will require an additional premium, shall reimburse the marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo, or other property is in custody of the Court.

(c) Vessel Operations. Following arrest or attachment of a vessel, no cargo handling, repairs, or movement may be made without an order of Court. The applicant for such an order shall give notice to the marshal and to all parties of record. Upon proof of adequate insurance coverage of the applicant to indemnify the marshal for his or her liability, the Court may direct the marshal to permit cargo handling, repairs, movement of the vessel, or other operations. Before or

after the marshal has taken custody of a vessel, cargo or other property, any party of record may move for an order to dispense with keepers or to remove to or place the vessel, cargo, or other property at a specified facility, to designate a substitute custodian or for similar relief. Notice of the motion shall be given to the marshal and to all parties of record. The judicial officer will require that adequate insurance on the property be maintained by the successor to the marshal, before issuing the order to change arrangements.

(d) Claims by Suppliers for Payment of Charges. A person who furnishes supplies or services to a vessel, cargo, or other property in custody of the Court who has not been paid and claims the right to payment as an expense of administration shall file an invoice with the Clerk in the form of a verified claim at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim on the marshal, substitute custodian if one has been appointed, and all parties of record. The Court may consider the claims individually or schedule a single hearing for all claims.

14. Sale of Property.

(a) Notice. Notice of sale of arrested or attached property shall be published in one or more newspapers to be specified in the order for sale. Unless otherwise ordered by a judge upon a showing of urgency or impracticality or unless otherwise provided by law, such notice shall be published for at least six consecutive days before the date of sale.

(b) Payment of Bid. Unless otherwise provided in the order, in all public auction sales by the marshal under orders of sale in admiralty and maritime claims, the marshal shall require of the last and highest bidder at the sale a minimum deposit in cash, certified check or cashier's check, of the full purchase price if it does not exceed $500, and otherwise $500 or ten percent of the bid, whichever is greater. The balance, if any, of the purchase price shall be paid in cash, certified check or cashier's check before confirmation of the sale or within three days of the dismissal of

any opposition which may have been filed, exclusive of Saturdays, Sundays and legal holidays. Notwithstanding the above, a plaintiff or intervening plaintiff foreclosing a properly recorded and endorsed preferred mortgage on, or other valid security interest in, the vessel may bid, without payment of cash, certified check, or cashier's check, up to the total amount of the secured indebtedness as established by affidavit filed and served by that party on all other parties no later than ten (10) days prior to the date of sale.

(c) Report and Confirmation. At the conclusion of the sale, the marshal shall forthwith file a written report to the Court of the fact of sale, the price obtained and the name and address of the buyer. The Clerk of the Court shall endorse upon such report the time and date of its filing. If within three days, exclusive of Saturdays, Sundays, and legal holidays, no written objection is filed, the sale shall stand confirmed as of course, without the necessity of any affirmative action thereon by the Court, and the Clerk upon request shall so state to the marshal in writing; except that no sale shall stand confirmed until the buyer has complied fully with the terms of his or her purchase. If no opposition to the sale is filed, the expenses of keeping the property pending confirmation of sale shall be charged against the party bearing expenses before the sale (subject to taxation as costs), except that if confirmation is delayed by the purchaser's failure to pay any balance which is due on the price, the cost of keeping the property subsequent to the three-day period herein above specified shall be borne by the purchaser.

(d) Penalty for Late Payment of Balance. A successful bidder who fails to pay the balance of the bid within the time allowed under these rules or a different time specified by the Court shall also pay the marshal the costs of keeping the property from the date payment of the balance was due to the date the bidder pays the balance and takes delivery of the property. Unless otherwise ordered by the Court, the marshal shall refuse to release the property until the additional charge is paid.

(e) Penalty for Default in Payment of Balance. A successful bidder who fails to pay the balance of the bid within the time allowed is in default and the Court may at any time thereafter order a sale to the second highest bidder or order a new sale as appropriate. Any sum deposited by the bidder in default shall be applied to pay any additional costs incurred by the marshal by reason of the default, including costs incident to resale. The balance of the deposit, if any, shall be retained in the registry subject to further order of the Court, and the Court shall be given written notice of its existence whenever the registry deposits are reviewed.

(f) Opposition to Sale. A party filing an opposition to the sale, whether seeking the reception of a higher bid or a new public sale by the marshal, shall give prompt notice to all other parties and to the purchaser. Such party shall also, prior to filing an opposition, secure the marshal's endorsement upon it acknowledging deposit with the marshal of the necessary expense of keeping the property for at least five days. Pending the Court's determination of the opposition, such party shall also advance any further expense at such times and in such amounts as the marshal shall request, or as the Court orders upon application of the marshal or the opposing party. Such expense may later be subject to taxation as costs. In the event of failure to make such advance, the opposition shall fail without necessity for affirmative action thereon by the Court. If the opposition fails, the expense of keeping the property during its pendency shall be borne by the party filing the opposition.

(g) Disposition of Deposits.

(1) Objection Sustained. If an objection is sustained, sums deposited by the successful bidder will be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the marshal in keeping the property until it is resold, and any balance remaining shall be returned to the objector. The objector will be reimbursed from the proceeds of a subsequent sale for the expense of keeping the property.

(2) Objection Overruled. If the objection is overruled, the sum deposited by the objector will be applied to pay the expense of keeping the property from the day the objection was filed until the day the sale is confirmed, and any balance remaining will be returned to the objector forthwith.

LAR F - Limitation Of Liability

1. Security for Costs. The amount of security for costs under Supplemental Rule F(1) shall be $1000 unless otherwise ordered and it may be combined with the security for value and interest.

2. Order of Proof at Trial. Where the vessel interests seeking statutory limitation of liability have raised the statutory defense by way of answer or complaint, the plaintiff in the former or the damage claimant in the latter shall proceed with its proof first, as in normal civil trials.

LAR G - Miscellaneous

1. Deserting Seamen Cases.

(a) Service. Upon filing a verified petition for return of wages deposited in the registry of the Court by a Coast Guard official to whom the duties of shipping commissioner have been delegated pursuant to the provisions of 46 U.S.C. § 11505, a copy of the petition shall be served forthwith on the United States Attorney and a copy mailed to the Attorney General of the United States, after which a sworn return of such service and mailing shall be filed.

(b) Time to Plead. The United States has twenty days after receipt of a copy of the petition by the United States Attorney in which to file its responsive pleading and claim.

2. Rate of Prejudgment Interest Allowed. Unless a judge directs otherwise or as provided by statute, prejudgment interest shall be awarded at the rate authorized in 28 U.S.C. § 1961,

providing for interest on judgments.

3. Assignment of Actions. If the judge to whom a case under the Local Admiralty Rules has been assigned is not readily available, any matter pertaining to arrest, attachment, garnishment, security or release may be presented to any other judicial officer in the district without reassigning the case.

Tax Rules

NOTE: The local tax rules shall be cited "LTR __."

LTR 1 Tax Division.

The rules in this chapter are adopted pursuant to The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, reprinted as amended in 48 U.S.C.A. § 1801 note (West 1998) ("Covenant"), implemented by Public Law No. 95-157, 91 Stat. 1266 (Nov. 8, 1977), including Covenant articles IV and VI; 48 U.S.C. §1822; 4 N.Mar.I. Code §1701(j); and, Fed.R.Civ.P. 83. Pursuant thereto, this court is vested with the same jurisdiction with regard to the Northern Marianas Territorial Income Tax as the Tax Court of the United States is vested with respect to the United States Income Tax, and this court is empowered to implement such jurisdiction by enacting necessary rules of procedure. Id.; see also, 26 U.S.C. §7442 (1954). Cases subject to the tax jurisdiction of this court and to these rules shall be filed in this court's Tax Division.

LTR 2 Effective Date, Scope of Rules, and Construction.

a. Effective Date. These Tax Rules shall apply to all cases and proceedings pending on or commenced after January 1, 1997, in this court's Tax Division (hereinafter referred to as the "Tax Division").

b. Scope. These Tax Rules shall govern the practice and procedure in all cases and proceedings in the Tax Division. Where in any instance these Tax Rules do not provide an applicable rule of procedure, the Federal Rules of Civil Procedure or the court's Local Rules shall apply; provided, however, that if the application of a particular rule would be inconsistent with the jurisdiction of the Tax Division, or if a rule of procedure set forth in the Rules of Practice and

Procedure of the United States Tax Court would be more suitable for the particular matter at hand, this court may, on the motion of a party or on its own motion, direct that such rule shall not apply, or prescribe the applicable procedure.

c. Construction. These rules shall be construed to secure the just, speedy, and inexpensive determination of every case in the Tax Division.

LTR 3 Commencement of Case.

A case is commenced in the Tax Division by filing a petition with this court to redetermine a deficiency or liability set forth in a notice of deficiency issued in accordance with the Northern Marianas Territorial Income Tax. See, Title 4 Commonwealth Code, Div. 1.

LTR 4 Pleadings Allowed; Caption.

There shall be a petition and answer and, where required under these Rules or the Rules of Practice and Procedure of the United States Tax Court, a reply. No other pleading shall be allowed, except that the court may permit or direct other responsive pleadings. All pleadings shall state on the first page that the matter is in the court's Tax Division.

LTR 5 Filing of Petition for Redetermination.

a. A taxpayer may file with this court a petition to redetermine a deficiency or liability within 90 days after the notice of deficiency or liability is mailed to the taxpayer's last known address by registered mail or certified mail, or 150 days if the notice is mailed to the taxpayer's last known address by registered mail or certified mail and the taxpayer's last known address is not located within the Commonwealth of the Northern Marianas Islands ("CNMI").

b. Ordinarily, a separate petition shall be filed with respect to each notice of deficiency

or each notice of liability. However, a single petition may be filed seeking a redetermination with respect to all notices of deficiency or liability directed to one person alone or to that person and one or more other persons, except that the court may require a severance and a separate case to be maintained with respect to one or more of such notices. Where the notice of deficiency or liability is directed to more than one person, each such person desiring to contest it shall file a petition on his or her own behalf, either separately or jointly with any such other person, and each such person must satisfy all the requirements of this rule with respect to himself or herself in order for the petition to be treated as filed by or for him or her.

LTR 6 Content of Petition in Deficiency or Liability Actions.

The petition in a deficiency or liability action shall contain:

a. The petitioner's name and legal residence, in the case of a petitioner other than a corporation; in the case of a corporate petitioner, its name and principal place of business or principal office or agency; and, in all cases, the petitioner's identification number (e.g., Social Security number or employer identification number). The legal residence, principal place of business, or principal office or agency shall be stated as of the date of filing the petition. In the event of a variance between the name set forth in the notice of deficiency or liability and the correct name, a statement of the reasons for such variance shall be set forth in the petition.

b. The date of mailing of the notice of deficiency or liability, or other proper allegations showing jurisdiction in the court, and the location of the CNMI agency which issued the notice.

c. The amount of the deficiency or liability, as the case may be, determined by the CNMI; the nature of the tax; the year or years or other periods for which the determination was made; and, if different from the CNMI's determination, the approximate amount of taxes in controversy.

d. Clear and concise assignments of each and every error which the petitioner alleges to have been committed by the CNMI in the determination of the deficiency or liability. The assignments of error shall include issues for which the burden of proof is on the CNMI. Any issue not raised as an assignment of error shall be deemed to be conceded. Each assignment of error shall be separately set forth in numbered paragraphs.

e. Clear and concise separately numbered statements of the facts on which petitioner bases the assignment of error, except with respect to those assignments of error as to which the burden of proof is on the CNMI.

f. A prayer setting forth the relief sought by the petitioner.

g. The signature, mailing address, and telephone number of each petitioner or of petitioner's counsel.

h. A copy of the notice of deficiency or liability, as the case may be, shall be appended to the petition, and there shall be included so much of any statement accompanying the notice as is material to the issues raised by the assignments of error. If the notice of deficiency or liability or accompanying statement incorporates by reference any prior notices of other material furnished by the CNMI, such parts thereof as are material to the issues raised by the assignments of error likewise shall be appended to the petition.

LTR 7 Answer.

a. Time to Answer or File Motion. The CNMI shall have 60 days from the date of service of the petition (or any amended petition) within which to file an answer, or 45 days from that date within which to file a motion with respect to the petition.

b. Form and Content. The answer shall contain a clear and concise statement of every ground, together with the facts in support thereof, on which the CNMI relies and has the burden

of proof, and shall specifically admit or deny each material allegation in the petition. However, if the CNMI is without knowledge or information sufficient to form a belief as to the truth of an allegation, then the CNMI shall so state, and such statement shall have the effect of a denial. If the CNMI intends to qualify or to deny only a part of an allegation, then the CNMI shall specify so much of it as is true and shall qualify or deny only the remainder. Paragraphs of the answer shall be designated to correspond to those of the petition to which they relate.

c. Effect of Failure to Admit or Deny. Every material allegation set out in the petition and not expressly admitted or denied in the answer shall be deemed to be admitted.

LTR 8 Reply.

a. Time to Reply or File a Motion. The petitioner shall have 45 days from the date of service of the answer (or any amended answer) within which to file a reply, or 30 days from that date within which to file a motion with respect to the answer.

b. Form and Content. In response to each material allegation in the answer and the facts in support thereof on which the CNMI has the burden of proof, the reply shall contain a specific admission or denial. However, if the petitioner is without knowledge or information sufficient to form a belief as to the truth of an allegation, then the petitioner shall so state, and such statement shall have the effect of a denial. In addition, the reply shall contain a clear and concise statement of every ground, together with the facts in support thereof, on which the petitioner relies affirmatively or in avoidance of any matter in the answer on which the CNMI has the burden of proof. In other respects the requirements of pleading applicable to the answer provided in LTR 7.b. shall apply to the reply.

c. Effect of Failure to Admit or Deny. Every affirmative allegation set out in the answer and not expressly admitted or denied in the reply shall be deemed to be admitted. If a reply is not

filed, the affirmative allegations in the answer will be deemed admitted.

d. New Material. Any new material contained in the reply shall be deemed to be denied.

LTR 9 Stipulations for Trial.

a. Stipulations Required.

1. General. The parties are required to stipulate, to the fullest extent to which complete or qualified agreement can or fairly should be reached, to all matters not privileged which are relevant to the pending case, regardless of whether such matters involve fact or opinion or the application of law or fact. Included in matters required to be stipulated to are all facts, all documents and papers or contents or aspects thereof, and all evidence which fairly should not be in dispute. Where the truth or authenticity of facts or evidence claimed to be relevant by one party is not disputed, an objection on the ground of materiality or relevance may be noted by any other party but is not to be regarded as just cause for refusal to stipulate. The requirement of stipulation applies under this rule without regard to where the burden of proof may lie with respect to the matters involved. Documents or papers or other exhibits annexed to or filed with the stipulation shall be considered to be part of the stipulation.

2. Stipulations to be Comprehensive. The fact that any matter may have been obtained through discovery, requests for admission, or through any other authorized procedure is not ground for omitting such matter from the stipulation. Such other procedures should be regarded as aids to stipulation, and matter obtained through them which is within the scope of paragraph 1. must be set forth comprehensively in the stipulation, in logical order in the context of all other provisions of the stipulation.

b. Form. Stipulations shall be clear and concise, signed by the parties or their counsel. Documents which are the subject of stipulation shall be filed with the stipulation. Two sets of

exhibits shall be required for the court. Petitioner's exhibits shall be numbered serially, i.e., 1, 2, 3, etc.; respondent's exhibits shall be lettered serially, i.e., A, B, C, etc.; joint exhibits shall be numbered serially, i.e., JT-1, JT-2, JT-3, etc.

c. Filing. Executed stipulations and related exhibits prepared pursuant to this rule shall be filed by the parties at least 10 calendar days before trial, unless the court orders otherwise. A stipulation when filed need not be offered formally to be considered in evidence.

d. Objections. An objection to all or any part of a stipulation should be noted in the stipulation, and the court will consider at or during trial for good cause shown any objection to a stipulated matter.

e. Binding Effect. A stipulation shall be treated as conclusive, unless otherwise ordered by the court. The court will not permit a party to a stipulation to qualify, change, or contradict a stipulation in whole or in part, except where justice requires after a showing of good cause. A stipulation shall be binding and have effect only in the pending case and not for any other purpose.

f. Noncompliance by a Party.

1. Motion to Compel Stipulation. If, after the date of issuance of trial notice in a case, a party has refused or failed to confer with his or her adversary with respect to entering into a stipulation in accordance with this rule, or has refused or failed to make such a stipulation of any matter within the terms of this rule, the party proposing to stipulate may, at a time not later than 60 days prior to the date set for trial, move the court for an order directing the delinquent party to show cause why the matters covered in the motion should not be deemed admitted. The motion shall (I) show with particularity and by separately numbered paragraphs each matter which is claimed for stipulation; (ii) set forth in express language the specific stipulation which the moving party proposes with respect to each such matter and annex thereto that as to which the moving party desires a stipulation; (iii) set forth the source, reason, and basis for claiming why the matter

should be stipulated to; (iv) show that the opposing side has had reasonable access to those sources or basis for stipulation and has been informed of the reasons for the stipulation; and, (v) show proof of service of a copy of the motion upon the adversary.

2. Procedure. Within 20 days of the service of the order to show cause, the party to whom the order is directed shall file a response with the court, with proof of service of a copy thereof on opposing counsel or the other parties, showing why the matter set forth in the motion should not be deemed admitted. The responses shall list each matter involved on which there is no dispute, referring specifically to the numbered paragraphs in the motion. If a matter is disputed only in part, the response shall show the part admitted and the part disputed. Where the responding party is willing to stipulate in whole or in part with respect to any matter in the motion by varying or qualifying a matter in the proposed stipulation, the response shall set forth the variance or qualification which the responding party is willing to make. Where the response claims that there is a dispute as to any matter in part or in whole, or where the response presents a variance or qualification with respect to any matter in the motion, the response shall show the source, reason, and basis on which the responding party relies for that purpose.

3. Failure to Respond. If no response is filed within the period specified with respect to any matter or portion thereof, or if the response is evasive or not fairly directed to the proposed stipulation or portion thereof, that matter or portion thereof may be deemed stipulated to for purposes of the pending case, and an order may be entered accordingly.

4. Matters Considered. Opposing claims of evidence will not be weighed under this rule unless such evidence is patently incredible, nor will a genuinely controverted or doubtful issue of fact be determined in advance of trial. The court will determine whether a genuine dispute exists, or whether in the interests of justice a matter ought not be deemed stipulated.

5. Sanctions. The court may impose sanctions on the non-cooperating party.

LTR 10. Pretrial Conferences.

The provisions of LR 61.2CJ shall be applicable to matters in the Tax Division, to the extent practicable.

LTR 11 Decisions Without Trial.

Dispositive motions shall be made in accordance with the Federal Rules of Civil Procedure and the court's Local Rules.

LTR 12 Default and Dismissal.

Motions for default or to dismiss shall be made in accordance with the Federal Rules of Civil Procedure and the court's Local Rules.

LTR 13 Burden of Proof.

a. General. The burden of proof shall be upon the petitioner, except as otherwise provided by statute or determined by the court; except that, in respect of any new matter, increases in deficiency, or affirmative defenses pleaded in the respondent's answer, it shall be upon the respondent.

b. Fraud. In any case involving fraud with intent to evade tax, the burden of proof in respect of that issue is on the respondent, and that burden of proof is to be carried by clear and convincing evidence. See, 26 U.S.C. § 7454(a).

LTR 14 Computation by Parties for Entry of Decision.

a. Agreed Computations. Where the court has stated its opinion determining the issues in a case, it may withhold entry of its decision for the purpose of permitting the parties to submit

computations pursuant to the court's determination of the issues, showing the correct amount of the deficiency, liability, or overpayment to be entered as the decision. If the parties are in agreement as to the amount of the deficiency or overpayment to be entered as the decision pursuant to the findings and conclusions of the court, they, or either of them, shall file with the court within 14 calendar days an original and two copies of a computation showing the amount of the deficiency, liability, or overpayment, and shall state that there is no disagreement that the figures shown are in accordance with the findings and conclusions of the court. The court will then enter its final decision.

b. Procedure in Absence of Agreement. If the parties are not in agreement as to the amount of the deficiency, liability, or overpayment to be entered as the decision in accordance with the findings and conclusions of the court, either of them may file within fourteen (14) calendar days of the court's decision determining the issues in the case, with a copy to the other, a computation of the deficiency, liability, or overpayment believed by that party to be in accordance with the court's findings and conclusions. If the opposing party fails to file an objection within seven (7) calendar days thereafter, accompanied or preceded by an alternative computation, the court may enter its decision in accordance with the computation already submitted. If in accordance with this rule computations are submitted by the parties which differ as to the amount to be entered as the decision of the court, the parties may, at the court's discretion, be afforded an opportunity to be heard in argument thereon and the court will determine the correct deficiency, liability, or overpayment and will enter its decision accordingly.

c. Limit on Argument. Any argument under this rule will be confined strictly to consideration of the correct computation of the deficiency, liability, or overpayment resulting from the findings and conclusions made by the court. This rule is not to be regarded as affording an opportunity for retrial or reconsideration.

Appendix A

DISCIPLINARY RULES

_____

UNITED STATES DISTRICT COURT

NORTHERN MARIANA ISLANDS

Disciplinary Rules

Table of Contents

NOTE: The Local Disciplinary Rules shall be cited as "LDR ___."

RULES OF DISCIPLINE

OF THE

UNITED STATES DISTRICT COURT FOR THE NORTHERN MARIANA ISLANDS

The following Disciplinary Rules and Procedures are hereby adopted to be effective January 1, 1997, provided, however, that the procedures set forth herein shall be applied to all disciplinary actions now pending or hereinafter initiated.

LDR 1 - Jurisdiction.

Any attorney admitted to practice law before this Court or any attorney specially admitted for a particular proceeding is subject to the disciplinary jurisdiction of this Court.

Nothing herein contained shall be construed to deny this Court such powers as are necessary for it to maintain control over proceedings before it, such as contempt power.

LDR 2 - Grounds for Discipline.

An attorney may be subject to disciplinary action as set forth in these Rules for any of the following causes occurring within or outside the District of the Northern Mariana Islands:

(a) The commission of any act involving moral turpitude, dishonesty, or corruption, whether the same be committed in the course of his or her conduct as an attorney, or otherwise, and whether the same constitutes a felony or misdemeanor or not; and if the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action.

Upon such conviction, however, the judgment and sentence shall be conclusive evidence at a disciplinary hearing of his or her violation of the statute upon which it is based. A disciplinary

hearing, as provided in Rule 10 of these Rules, shall be had to determine (1) whether moral turpitude was in fact an element of the crime committed by the respondent attorney, and, if so, (2) the disciplinary action recommended to result therefrom.

(b) Willful disobedience or violation of a court order directing the attorney to do or cease doing an act which he or she ought to in good faith do or forbear.

(c) Violation of his or her oath or duties as an attorney.

(d) Willfully appearing without authority as an attorney for a party to an action or proceeding.

(e) Misrepresentation or concealment of a material fact made in his or her application for admission to the bar, or for reinstatement, or in support thereof.

(f) Suspension, disbarment, or other disciplinary sanction by competent authority in any state, federal, territorial, commonwealth, or foreign jurisdiction.

(g) Practicing law with or in cooperation with a disbarred or suspended attorney, or maintaining an office for the practice of law in a room or office occupied or used in whole or in part by a disbarred or suspended attorney, or permitting a disbarred or suspended attorney to use his or her name for the practice of law, or practicing law for or on behalf of a disbarred or suspended attorney, or practicing law under any arrangement or understanding for division of fees or compensation of any kind with a disbarred or suspended attorney, or with any person not authorized to practice law.

(h) Any acts or omissions by an attorney which violate the Model Rules of Professional Conduct of the American Bar Association as adopted in 1983 and as thereafter amended or judicially construed.

LDR 3 - Types of Discipline.

Discipline may consist of:

(a) Disbarment; or,

(b) Suspension for a period not exceeding five (5) years; or

(c) Public censure; or

(d) Private reprimand.

LDR 4 - Complaints.

(a) All complaints concerning violations of these Rules shall be filed with the Chief Judge, and shall remain confidential and under seal unless and until the Disciplinary Committee determines a formal hearing is necessary.

(b) Upon receipt of a complaint alleging violation of these Rules, the Chief Judge shall designate one or more members of this Court's Bar, as necessary, to investigate the allegations of misconduct, and a three-member Disciplinary Committee, comprised of attorneys who are members of this Court's Bar.

LDR 5 - Investigation Procedure.

(a) The person or persons designated to investigate a complaint shall conduct such an investigation as is warranted by the circumstances and shall submit a report to the Disciplinary Committee concerning the merits of the complaint.

(b) The report of the investigation shall include copies of statements of witnesses, all documentary evidence relative to the complaint, and a summary of the findings of the investigation, but shall not include recommended disciplinary action.

(c) No report shall be submitted until the respondent attorney has had a reasonable

opportunity to submit to the person assigned to investigate the matter any evidence or statements relevant to the complaint, and such evidence or statements shall be attached to the investigation report.

LDR 6 - Disciplinary Committee.

(a) Composition. The Disciplinary Committee shall consist of three attorneys who are admitted to the Bar of this Court.

(b) Duties. Within a reasonable time, the Disciplinary Committee shall review all reports forwarded to it by the investigating attorney(s) and take such action pursuant to these Rules as it deems appropriate.

(c) Formal Hearing. If the Disciplinary Committee determines a formal hearing is necessary, it will recommend to the Chief Judge that Prosecuting Counsel be appointed in accordance with Rule 8 and that a hearing be conducted in accordance with Rule 10.

LDR 7 - Investigation Report Disposition and Appointment of Judicial Panel.

(a) If, after review of the report of the investigation conducted in accordance with Rule 5, the Disciplinary Committee determines the complaint is unfounded or of a trivial nature, the Committee shall so inform the Chief Judge.

(b) If, after a review of the report of the investigation conducted in accordance with LDR 5, the Disciplinary Committee determines that the matter warrants further consideration, the Committee shall so inform the Chief Judge, who will then appoint to hear the matter a three-judge Judicial Panel which shall, unless circumstances dictate otherwise, consist of the Chief Judge and two judges designated to sit in this Court.

LDR 8 - Prosecuting Counsel.

(a) Appointment. Counsel will be appointed by the Chief Judge to prosecute allegations of misconduct.

(b) Duties. Upon appointment, counsel will prepare a formal complaint for filing with the Court and shall be responsible for the presentation of all evidence relevant to the complaint. Counsel shall also have authority to conduct such further investigation as is necessary regarding the alleged misconduct of respondent attorney.

LDR 9 - Immunity of Investigating Counsel, Disciplinary Committee, and Prosecuting Counsel

Investigating Counsel, members of the Disciplinary Committee, the Prosecuting Counsel, and all other investigators and staff shall be absolutely immune from civil suit and liability for any conduct in the course of their official duties. Such immunity shall extend to all cases, whether previously decided, currently pending, or to be investigated and prosecuted.

LDR 10 - Hearing.

(a) Complaint. Formal disciplinary proceedings before the Court shall be instituted by the filing of a complaint which shall be sufficiently clear and specific to inform the respondent attorney of the alleged misconduct. A copy of the complaint shall be served upon the respondent.

(b) Answer. The respondent shall serve his or her answer upon the Prosecuting Counsel and file the original and two copies with the Court within twenty (20) days after service of the complaint, unless such time is extended by the Court upon motion for good cause shown. In the event the respondent fails to answer within the time allowed, or within any extension of time allowed by the Court, the charges shall be deemed admitted.

(c) Date of Hearing. The Court shall cause notice of the time and place of the hearing to be given to the respondent attorney at least ten (10) days prior thereto. The hearing will be conducted not earlier than thirty (30) days nor later than ninety (90) days after service of the complaint, unless delayed for good cause.

(d) Where Held. All disciplinary hearings shall be held in the District Court.

(e) Public Excluded from Hearing. Unless a public hearing is requested in writing by the respondent attorney at least five (5) days prior to the hearing, the hearing of a disciplinary matter shall not be public.

(f) Procedure. At every hearing respondent shall have full opportunity to cross-examine all witnesses presented by the Prosecuting Counsel and to present witnesses on his or her own behalf. The Court shall not be bound by the formal Rules of Evidence but it shall admit only trustworthy evidence.

(g) Findings and Conclusions. Within a reasonable time after the hearing, the Court shall enter its findings of fact and conclusion of law and specify the disciplinary action, if any, to be taken against respondent.

LDR 11 - Refusal of Complainant to Proceed or Compromise. Neither unwillingness nor neglect of the complainant to prosecute a charge, nor settlement or compromise between the complainant and the respondent attorney, or restitution or other remedial action taken by the respondent attorney shall, in itself, justify abatement of the prosecution of any complaint.

LDR 12 - Matters Involving Related Pending Civil or Criminal Litigation.

(a) Prosecution of a complaint shall not be deferred or abated because of substantial similarity to the material allegations of pending criminal or civil litigation, unless authorized by the

Chief Judge in his or her discretion for good cause shown.

(b) The acquittal of an attorney on criminal charges or a verdict or judgment in his or her favor in civil litigation involving substantially similar material allegations shall not in and of itself justify abatement of a disciplinary action predicated on the same material allegations.

LDR 13 - Service.

(a) Service upon the respondent of the complaint in any disciplinary proceeding shall be made by personal service by a person authorized by the Federal Rules of Civil Procedure; except, if the respondent cannot be found within the district or has departed therefrom, service may be made by registered or certified mail at his or her address as it is shown in the registration statement filed with his or her admission papers, or other last known address.

(b) Service of any other papers or notices required by these Rules shall be made in accordance with the Federal Rules of Civil Procedure.

LDR 14 - Subpoena Power - Witnesses.

(a) Any person designated by the Court or the Disciplinary Committee to investigate any matter under these Rules may administer oaths and affirmations.

(b) The Chief Judge, any member of the Judicial Panel, and any member of the Disciplinary Committee may issue subpoenas to compel the attendance of the respondent attorney or of a witness, or the production of books or documents at the taking of a deposition or at a hearing. Subpoenas shall be served in the same manner as in civil cases under the Federal Rules of Civil Procedure.

(c) A respondent may compel by subpoena the attendance of witnesses and the production of books or documents at a hearing or deposition.

(d) There shall be no discovery proceedings except upon order of the Court.

LDR 15 - Attorneys Convicted of Crimes.

(a) Upon the filing with the Chief Judge of a certificate of a Clerk of Court demonstrating that an attorney has been convicted of a crime which is or, if it had been committed in the district, would have been, a felony, or which involves dishonesty or false statement, pending final disposition of the disciplinary procedure to be commenced upon such conviction, the Chief Judge shall enter an order immediately restraining the attorney from engaging in the practice of law. This shall be done whether the conviction resulted from a plea of guilty or nolo contendere, or from a verdict after trial or otherwise, regardless of the pendency of an appeal. Upon good cause shown, the Chief Judge may set aside such order restraining the attorney from engaging in the practice of law when it appears to be in the interests of justice to do so.

(b) Final conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against him or her based upon the conviction. For the purpose of this Rule, a judgment of conviction is deemed final when the availability of appeal has been exhausted.

(c) Upon the receipt of a certificate of conviction described in (a), above, even if the attorney is not restrained from the practice of law, the Chief Judge shall institute a hearing as provided in Rule 10 in which the sole issue to be determined shall be the extent of the discipline to be imposed, if any, provided the proceedings so instituted shall not be brought to hearing until the judgment of conviction is final, unless the respondent so requests.

(d) Immediately upon the filing with the Chief Judge or Judicial Panel of a certificate demonstrating that the underlying conviction for a crime has been reversed, any order entered under provisions of (a), above, restraining the attorney from the practice of law shall be vacated,

any formal proceeding then pending against the attorney founded solely upon such conviction shall be terminated, and any discipline imposed in such formal proceeding shall be vacated. But, the reversal of conviction shall not terminate or affect any formal proceeding previously or thereafter instituted founded upon alleged misconduct by the attorney, whether or not involving the same general facts and whether or not involving the same facts alleged to constitute a crime or offense for which the attorney was convicted.

LDR 16 - Reciprocal Discipline.

(a) All attorneys subject to the provisions of these Rules shall, upon being notified of contemplated or pending professional disciplinary action in another jurisdiction, promptly inform the Chief Judge of such action and provide the Chief Judge with a true copy of any disciplinary letter, notice, order, or other paper received by the attorney.

(b) When discipline in another jurisdiction has been imposed, an attorney subject to the provisions of these Rules shall, upon receipt of a true copy of an order or other official notification indicating that he or she has been subjected to discipline in another jurisdiction, provide the Chief Judge a copy of said order. Upon receipt thereof, whether from the affected attorney or from the jurisdiction, the Chief Judge shall forthwith issue a notice directed to the attorney containing:

(1) A copy of said order or other official notification from the other jurisdiction; and

(2) An order directing that the attorney inform the Chief Judge within thirty (30) days from mailing by certified mail, return receipt requested, of the notice of any claim by the attorney that the imposition of the identical discipline in this Court would be unwarranted and the reasons therefor. Failure of the attorney to respond may be deemed acquiescence to the imposition of reciprocal discipline.

(c) Upon the expiration of thirty (30) days from the service of notice issued pursuant to

provision (b), above, the Chief Judge shall impose the identical discipline, unless the attorney requests a hearing to show cause why identical discipline should not be imposed. After the hearing the Court shall impose the same discipline unless it clearly appears in the record upon which the discipline is predicated (1) that the procedure was so lacking in notice or opportunity to be heard as to constitute deprivation of due process; or, (2) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the Court should not, consistent with its duties, accept as final the conclusion on that subject; or, (3) that the misconduct established warrants substantially different discipline in this Court. Where the Court determines that any of said elements exist, it shall enter such other order as it deems appropriate.

(d) In all other respects a final adjudication in another jurisdiction that an attorney has been guilty of misconduct shall establish conclusively the misconduct for the purpose of a disciplinary proceeding in this Court.

LDR 17 - Disbarred or Suspended Attorney.

(a) A disbarred or suspended attorney shall promptly notify by registered or certified mail, return receipt requested, all clients being represented in pending matters, including litigation or administrative proceedings, of his or her disbarment or suspension and his or her consequent inability to act as an attorney after the effective date of disbarment or suspension. The attorney shall also advise the clients to seek legal assistance elsewhere. With regard to pending litigation or administrative proceedings the notice to be given to the client shall advise the client of the desirability of prompt substitution of another attorney in his or her place. Notice shall be given also to the attorney or attorneys for any adverse party and shall state the place of residence of the client of the disbarred or suspended attorney.

(b) In the event the client does not obtain subsequent counsel before the effective date

of the disbarment or suspension, it shall be the responsibility of the disbarred or suspended attorney to move, in the court or agency in which the proceeding is pending, for leave to withdraw as attorney of record.

(c) Orders imposing suspension or disbarment shall be effective thirty (30) days after entry. The disbarred or suspended attorney, after entry of the disbarment or suspension order, shall not accept any new retainer or engage as the attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order to its effective date, the attorney may complete on behalf of any client all matters which were pending on the entry date.

(d) Within ten (10) days after the effective date of the disbarment or suspension order, the disbarred or suspended attorney shall file with this Court an affidavit showing: (1) that he or she has complied with the provisions of the order and with these Rules; (2) that he or she has notified all other commonwealth, state, territorial, and federal jurisdictions to which he or she is admitted to practice of the disciplinary action. Such affidavit shall also set forth the residence or other address of the disbarred or suspended attorney where communications may thereafter be directed to him or her.

(e) The Chief Judge shall cause a notice of the suspension or disbarment to be published in a newspaper of general circulation in the district.

(f) The Chief Judge shall promptly transmit a certified copy of the order of suspension or disbarment to all judges within the district, to all courts to which the attorney has been admitted, as reflected in the attorney's application for admission to this court's bar, and to the administrative agencies therein, and shall make such further orders as are deemed necessary to fully protect the rights of the clients of the suspended or disbarred attorney.

(g) A disbarred or suspended attorney shall keep and maintain records of the various

steps he or she has taken under these Rules so that, upon any subsequent proceedings instituted by or against the attorney, proof of compliance with these Rules and with disbarment or suspension order will be available. Proof of compliance with these Rules shall be a condition precedent to any petition for reinstatement.

LDR 18 - Reinstatement.

(a) No suspended or disbarred attorney may resume practice until reinstated by order of this Court.

(b) Any person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least two (2) years from the effective date of disbarment. Any attorney suspended from practice may not apply for reinstatement until the expiration of at least one-half of the period of suspension.

(c) Petitions for reinstatement by a disbarred or suspended attorney shall be filed with the Chief Judge. Upon receipt of the petition the Chief Judge shall set the matter for hearing. At such hearing the petitioner shall have the burden of demonstrating that he or she is qualified to practice law in the district and is worthy of the Court's trust and confidence. At the conclusion of the hearing the Court shall enter an appropriate order within a reasonable time.

(d) Necessary expenses incurred in the investigation and processing of a petition for reinstatement shall be paid by the petitioner.

LDR 19 - Cumulative Violations.

An attorney disciplined after the effective date of these Rules may be subject to suspension from the practice of law if he or she has a record of:

(a) three or more censures and/or reprimands; or

(b) any combination of a suspension or disbarment, plus one or more censures or reprimands.